



भारत का राजपत्र

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सं. 26] नई दिल्ली, जून 19—जून 25, 2011, शनिवार/ज्येष्ठ 29—आषाढ 4, 1933
No. 26] NEW DELHI, JUNE 19—JUNE 25, 2011, SATURDAY/JYAISTHA 29—ASADHA 4, 1933

इस भाग में अलग पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए साधिकार आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्यिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्यिक और प्रशिक्षण विभाग)

नई दिल्ली, 22 जून, 2011

का.आ. 1684.—केंद्रीय सरकार एवंद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राज्य सरकार, मणिपुर, सचिवालय, गृह विभाग, इम्फाल की दिनांक 1 अप्रैल, 2011 की अधिसूचना सं. 6/1 (2)/2011-एच(यूएपी) द्वारा प्राप्त सहमति से डा. एन. कुंजबिहारी सिंह, चेयरमैन माध्यमिक शिक्षा बोर्ड, मणिपुर की हत्या के संबंध में भारतीय दण्ड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 302, विधि-विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 के अधिनियम सं. 37) की धारा 16 और 20 तथा शस्त्र अधिनियम, 1959 (1959 का अधिनियम सं. 54) की धारा 25 (1-बी) के अधीन पुलिस स्टेशन, इम्फाल में दर्ज एफ.आई.आर. सं. 21(1) 2011 तथा उपर्युक्त उल्लिखित अपराध के संबंध में या उससे संबद्ध प्रयास, दुष्प्रेरणा तथा घड़यंत्र तथा उसी संव्यवहार के क्रम में किए गए या उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध या अपराधों का

अन्वेषण करने के संबंध में दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण मणिपुर राज्य के सम्बन्ध में करती है।

[फा. सं. 228/27/2011-एचीडी-II]

अशोक के के. मीणा, निदेशक (बी-II)

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 22nd June, 2011

S.O. 1684.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Manipur, Secretariat, Home Department, Imphal, vide Notification No. 6/1(2)/2011-H (UAP) dated 1st April, 2011, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Manipur for investigation of FIR No. 21(1)2011 under section 302 of

the Indian Penal Code, 1860 (Act No. 45 of 1860) sections 16 and 20 of the Unlawful Activities (Prevention) Act, 1967 (Act No. 37 of 1967) and section 25(1-B) of the Arms Act, 1959 (Act No. 54 of 1959) registered at Police Station, Imphal relating to the killing of Dr. N. Kunjabihari Singh, Chairman of the Board of Secondary Education, Manipur and attempt, abetment and conspiracy in relation to or in connection with the above mentioned offence and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F. No. 228/27/2011-AVD-II]

ASHOK K. K. MEENA, Director (V-II)

नई दिल्ली, 23 जून, 2011

का. आ. 1685.—दण्ड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) में प्रदत्त शक्तियों का उपयोग करते हुए केन्द्र सरकार एतद्वारा श्री दयान कृष्णन, वरिष्ठ काउन्सिल और उनके सहायक श्री गौतम नारायण, विशेष लोक अभियोजक को, आर.सी. संख्या 44(ए)/2010-डीएलआई का विशेष न्यायाधीश के न्यायालय, केन्द्रीय अन्वेषण ब्यूरो, नई दिल्ली तथा अपीलीय/रिवीजनल न्यायालयों में अपील/रिवीजन तथा उनसे संबंधित अथवा आनुषंगिक अन्य किसी मामले के अभियोजन के लिए नियुक्त करती है।

[फा. सं. 225/19/2011-एवीडी-II]

राजीव जैन, अवर सचिव (वी-II)

New Delhi, the 23rd June, 2011

S.O. 1685.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Dayan Krishnan, Advocate as Senior Counsel and his Assistant Shri Gautam Narayan, Advocate as Special Public Prosecutor to conduct prosecution of case in RC No. 44(A)/2010-DLI in the Court of Special Judge, Central Bureau of Investigation, New Delhi and appeals/revisions in the appellate/revisional courts and any other matter connected therewith or incidental thereto.

[F. No. 225/19/2011-AVD-II]

RAJIV JAIN, Under Secy. (V-II)

नई दिल्ली, 23 जून, 2011

का.आ. 1686.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पश्चिम बंगाल राज्य सरकार, गुह (राजनीतिक) विभाग, गुप्त अनुभाग, कोलकाता की दिनांक 25 मई, 2011 की अधिसूचना सं. 945/1(6) पी.एस. द्वारा प्राप्त सहमति से भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा

120-बी के साथ पठित धारा 489-बी तथा 489-सी के अंतर्गत धूलियन गंगा रेलवे स्टेशन पर रु. 27,95,500 मात्र के जाली भारतीय मुद्रा नोटों की जब्ती, जिसे राजस्व आसूचना निदेशालय, कोलकाता द्वारा 29-10-2010 को कार्यान्वित किया गया, के संबंध में दिनांक 29-4-2011 की शिकायत डी.आर.आई. फा. सं. 03/सी.एल./आई. एम.पी./डी.आर.आई./डी.आर.एम.-10-11/1407 के तथा उपर्युक्त उल्लिखित अपराध के संबंध में या उससे सबद्ध प्रयास, दुष्करण तथा घड़यन्त्र तथा उसी संब्यवहार के क्रम में किए गए या उन्होंने तथ्यों से उद्भूत किसी अन्य अपराध या अपराधों का अन्वेषण करने के संबंध में दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण पश्चिम बंगाल राज्य के संबंध में करती है।

[फा. सं. 228/36/2011-एवीडी-II]

अशोक के. के. मीणा, निदेशक (वी-II)

New Delhi, the 23rd June, 2011

S.O. 1686.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of West Bengal, Home (Political) Department, Secret Section, Kolkata, vide Notification No. 945/1(6)P.S. dated 25th May, 2011, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of West Bengal for investigation of complaint DRI F. No. 03/CL/IMP/DRI/DRM-10-11/1407 dated 29-4-2011 under sections 489-B and 489-C read with 120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860) relating to seizure of Fake Indian Currency Notes of Rs. 27,95,500 only effected on 29-10-2010 by the Directorate of Revenue Intelligence, Kolkata at Dhulian Ganga Railway Station and attempt, abetment and conspiracy in relation to or in connection with the above mentioned offence and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F. No. 228/36/2011-AVD-II]

ASHOK K. K. MEENA, Director (V-II)

नई दिल्ली, 23 जून, 2011

का. आ. 1687.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पश्चिम बंगाल राज्य सरकार, गुह (राजनीतिक) विभाग, गुप्त अनुभाग, कोलकाता की दिनांक 25 मई, 2011 की अधिसूचना सं. 946/1(6) पी.एस. तथा दिनांक 30 मई, 2011 के शुद्धि पत्र सं. 972 पी.एस. द्वारा प्राप्त सहमति से भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 120-बी के साथ पठित धारा 489-बी तथा 489-सी के अंतर्गत

न्यू फरक्का रेलवे स्टेशन पर रु. 19,86,000 मात्र के जाली भारतीय मुद्रा नोटों की जब्ती, जिसे राजस्व आसूचना निदेशालय, कोलकाता द्वारा 30-9-2010 को कार्यान्वित किया गया, के संबंध में दिनांक 29-4-2011 की शिकायत डी.आर.आई. फा. सं. 02/सी.एल./आई. एम.पी./डी.आर.आई./डी.आर.एम.-10-11/1408 के तथा उपर्युक्त उल्लिखित अपराध के संबंध में या उससे सम्बद्ध प्रयास, दुष्प्रेरणा तथा षड्यंत्र तथा उसी संव्यवहार के क्रम में किए गए या उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध या अपराधों का अन्वेषण करने के संबंध में दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण पश्चिम बंगाल राज्य के संबंध में करती है।

[फा.सं. 228/36/2011-एवीडी-II]

अशोक के. के. मीणा, निदेशक (वी-II)

New Delhi, the 23rd June, 2011

S.O. 1687.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of West Bengal, Home (Political) Department, Secret Section, Kolkata, vide Notification No. 946/1(6)P.S. dated 25th May, 2011, and Corrigendum No. 972-P.S. dated 30th May, 2011, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of West Bengal for investigation of complaint DRI F. No. 02/CL/IMP/DRI/ DRM-10-11/1408 dated 29-4-2011 under sections 489-B and 489-C read with 120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860) relating to seizure of Fake Indian Currency Notes of Rs. 19,86,000 only effected on 30-9-2010 by the Directorate of Revenue Intelligence, Kolkata at New Farakka Railway Station and attempt, abetment and conspiracy in relation to or in connection with the above mentioned offence and any other offence or offences committed in course of the same transaction or arising out of the same facts.

[F. No.228/36/2011-AVD-II]

ASHOK K. K. MEENA, Director (V-II)

स्वास्थ्य तथा परिवार कल्याण मंत्रालय

(स्वास्थ्य तथा परिवार कल्याण विभाग)

नई दिल्ली, 23 मई, 2011

का.आ. 1688.—भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करने के बाद उक्त अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित और संशोधन करती है, नामतः—

उक्त प्रथम अनुसूची में 'मान्यताप्राप्त चिकित्सा अर्हता' [कॉलम (2) में] और "त्रिपुरा विश्वविद्यालय" के समक्ष पंजीकरण के लिए संक्षिप्त रूप शीर्षक के अंतर्गत [कॉलम (3) में] निम्नलिखित को अंतर्विष्ट किया जाएगा नामतः—

(2)	(3)
बैचलर ऑफ मेडिसिन एंड बैचलर ऑफ सर्जरी	एम.बी.बी.एस. (जनवरी, 2011 को या उसके बाद त्रिपुरा मेडिकल कालेज एवं डॉ. बी.आर. अम्बेडकर मेमोरियल शिक्षण अस्पताल, अगरतला में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में त्रिपुरा विश्वविद्यालय द्वारा प्रदान की गई चिकित्सा अर्हता मान्यता प्राप्त होगी)

[सं. यू. 12012/126/2005-एमई(पी.II)]

अनिता त्रिपाठी, अवर सचिव

MINISTRY OF HELTH AND FAMILY WELFARE

Department of Health and Family Welfare

New Delhi, the 23rd May, 2011

S. O. 1688.—In exercise of the powers conferred by sub-section (2) of Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule against "Tripura University" under the heading 'Recognized Medical Qualification' [in column (2)] and under the heading 'Abbreviation for Registration' [in column (3)], the following shall be inserted, namely :—

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by Tripura University, in respect of students trained at Tripura Medical College & Dr. B.R. Ambedkar Memorial Teaching Hospital, Agartala, Tripura on or after January 2011)

[No. U. 12012/126/2004-ME(P-II)]

ANITA TRIPATHI, Under Secy.

नई दिल्ली, 24 मई, 2011

का.आ. 1689.—भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के बाद उक्त अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित और संशोधन करती है, नामत :—

उक्त प्रथम अनुसूची में 'मान्यताप्राप्त चिकित्सा अर्हता' [कॉलम (2) में] और "चौ.चरण सिंह विश्वविद्यालय मेरठ" के समक्ष पंजीकरण के लिए संक्षिप्त रूप शीर्षक के अंतर्गत [कॉलम (3) में] निम्नलिखित को अंतर्विष्ट किया जाएगा, नामत :—

(2)	(3)
"बैचलर ऑफ मेडिसिन एम.बी.बी.एस. एंड बैचलर ऑफ सर्जरी (मार्च, 2011 को या उसके बाद मुजफ्फरनगर चिकित्सा महाविद्यालय, मुजफ्फरनगर, उत्तर प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में चौ.चरण सिंह विश्वविद्यालय, मेरठ द्वारा प्रदान की गई चिकित्सा अर्हता मान्यता प्राप्त होगी)।"	

[सं. यू. 12012/238/2005-एमई(भी.पी.II) खण्ड]

अनिता त्रिपाठी, अवर सचिव

New Delhi, the 24th May, 2011

S. O. 1689.—In exercise of the powers conferred by sub-section (2) of Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby, makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule against "Ch. Charan Singh University Meerut" under the heading 'Recognized Medical Qualification' [in column (2)] and under the heading 'Abbreviation for Registration' [in column (3)], the following shall be inserted, namely :—

(2)	(3)
"Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by the Ch. Charan Singh University, Meerut in respect of students trained at Muzaffarnagar Medical College, Muzaffarnagar, Uttar Pradesh on or after March, 2011)"

[No. U. 12012/238/2005-ME(P-II) Pt.]
ANITA TRIPATHI, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक व्यूरो)

नई दिल्ली, 22 जून, 2011

का.आ. 1690.—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत की तिथि, वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भा. संख्या	मा. संख्या	भाग	अनु. वर्ष
(1)	(2)	(3)	(4)	(5)	(6)			
1.	9742190	30-7-2009	शिवा बिटूमेन, सी 16 फोकल व्हाइट, डेराबस्सी, जिला एस ए नगर, (पंजाब)	कंक्रीट पटरी एवं संरचनाओं में प्रसार जोड़ के लिए पूर्वरूपित भरण सामग्री (गैर बहिर्विधि एवं अतिस्कंदरी टाइप— भाग 1 बिटूमेन संसेचित काइबर पानी, गैस एवं मल जल के लिए दाढ़ पाइप हेतु तन्द लोहे की फिटिंगें	1838	1	1983	
2.	9742901	3-7-2009	जुनेंजा स्टीलस, गाँव वरियाना रोड, पी ओ नागरा जालन्थर (पंजाब)	पानी, गैस एवं मल जल के लिए दाढ़ पाइप हेतु तन्द लोहे की फिटिंगें	9523		2000	

(1)	(2)	(3)	(4)	(5)	(6)
3.	9743802	11-8-2009	कॉप कैमीकल्स इंडिया लिमिटेड, सी 63-64 फोकल प्लाइंट, कोटकपूरा, जिला फरीदकोट, (पंजाब)	डिक्लोरवस पायसनीय सांद्र	5277 1978
4.	9745297	30-7-2009	बी आर एग्रोटेक लिमिटेड, इण्डस्ट्रीयल एरिया, सिडको, कथुआ, (जे एंड के)	टैम्पफॉस 50 % इसी	8498 1977
5.	9746707	25-8-2009	एक्वा इम्पैक्स, फूडस, जनबाजपुरा बारामूला, काशमीर (जे एंड के)	पैकेजबंद पेयजल	14543 2004
6.	9747103	26-8-2009	शिवा बिटूमेन, सी 16 फोकल प्लाइंट, डेराबस्सी, जिला एस ए एस नगर, (पंजाब)	जलसर और नमसर बनाने के लिए बिटूमेन नमसर	1322 1993
7.	9748004	25-8-2009	हिन्दुस्तान पुलवरसिंग मिल्स, यूनिट 2, सिडको, इण्डस्ट्रीयल ग्रोथ सेंटर, जम्मू एवं काशमीर	अद्राजीन डब्ल्यू पी	12931 1990
8.	9748307	1-9-2009	सोनू इंजीनियरिंग वर्क्स, 20 करतार फार्म, साईड सी 53ए फोकल प्लाइंट एक्सटेंशन, जालन्धर-144 004	धातवर्ध्य ढलवें लोहे की पाईप फिटिंग्स	1879 1987
9.	9750189	14-9-2009	विजय स्टील इण्डस्ट्रीज ए 1, फेस 2, सिडको, इण्डस्ट्रीयल काम्प्लैक्स, बरी ब्रह्माणा, जम्मू	कंक्रीट प्रबलन के लिए उच्च सामर्थ्य की विरूपित इस्पात छड़े और तारें	1786 1985
10.	9750593	16-9-2009	सबास फूड इंडिया प्रा. लि., 3बी, इण्डस्ट्रीयल अस्टेट, बरीपुर, बेरपुर, जम्मू, बरी ब्रह्माणा,	पैकेजबंद पेयजल	14543 2004
11.	9750694	7-9-2009	एच बी इण्डस्ट्रीज, पो ओ नुरपुर, पठानकोट रोड, जालन्धर	धातवर्ध्य ढलवें लोहे की पाईप फिटिंग्स	1879 1987
12.	9752153	18-9-2009	अपर इंडिया स्टील, मैतुफैक्चुरिंग एंड इंजीनियरिंग, क. लि., धनसारी इण्डस्ट्रीयल, फोकल प्लाइंट, लुधियाना, (पंजाब)	सामान्य प्रयोजन हेतु-स्टील	2062 2006

(1)	(2)	(3)	(4)	(5)	(6)
13.	9753401	29-9-2009	जे के ट्यूब्स गाँवकंगरेल अंखनूर, रोड, जम्मू	स्टील ट्यूब	1239 1 2004
14.	9753805	29-9-2009	बेस्ट मिल्क प्रोडक्ट्स प्रा. लिमिटेड, एन एच 64, संगरुर बरनाला रोड, गाँव बडमेर, बरनाला जिला बरनाला, (पंजाब)	दूध पाउडर	13334 1 1998
15.	9754908	30-9-2009	अजर अमर स्टील्स, 1725/10 जी, 3 ए, फोकल प्लाइंट, लुधियाना, (पंजाब)	कंक्रीट प्रबलन के लिए उच्च सामर्थ्य की विरूपित इस्पात छड़े और तारें	1786 1985
16.	9755506	29-9-2009	आर के इण्डस्ट्रीज, जिन्दा रोड, जालन्थर (पंजाब)	धातवर्ध्य ढलवें लोहे की पाईप फिटिंग्स	1879 1987
17.	9756609	15-10-2009	भूषण पावर एंड स्टील, लिमिटेड, चण्डीगढ़ अम्ब रोड, एस ए एस नगर, मोहाली, डेराबस्सी	खोखले इस्पात के खंड सरचनात्मक प्रयोग के लिए	4923 1997
18.	9757813	27-10-2009	संगरुर ओरगैनिक्स प्रा. लिमिटेड, राधा स्वामी सत्संग के सामने, साहने बाल देहला रोड, लुधियाना, गाँव टिब्बा.	चौकोर कनस्तर टोस पदार्थों के लिए	916 2000
19.	9758916	22-10-2009	फिल इण्डस्ट्रीज लिमिटेड, सिड्को इलैक्ट्रोनिक्स काम्प्लैक्स, रंगेथ, जम्मू काश्मीर	पैकेजबंद पेय जल	14543 2004
20.	9759211	30-10-2009	सदाशिव कार्सिंग प्रा. लिमिटेड, पंडवाला रोड, गाँव मुबारिकपुर, डेराबस्सी, एस ए एस नगर, मोहाली	कंक्रीट प्रबलन के लिए उच्च सामर्थ्य की विरूपित इस्पात छड़े और तारें	1786 1985
21.	9759312	30-10-2009	सदाशिव कार्सिंग प्रा. लिमिटेड, पंडवाला रोड, गाँव मुबारिकपुर, डेराबस्सी एस ए एस नगर, मोहाली	सामान्य सरचना इस्पात में पुनर्वैल्लन के लिए कार्बन ढलवाँ इस्पात बिलेट इंगत, बिलेट ब्लूम और स्लैब	2830 1992
22.	9760394	05-11-2009	वी आई मॉनटाना, बेवरेजीस प्रा. लि., किशनपुरा, पी ओ छत्त तहसील डेराबस्सी एस ए एस नगर, मोहाली	पैकेजबंद पेय जल	14543 2004

(1)	(2)	(3)	(4)	(5)	(6)
23.	9763606	17-11-2009	भसीन मैटल इण्डस्ट्रीज, 168-169, उद्योग नगर, बैकसाइड, फोकल प्लाइंट के पीछे, गोदाईपुर, जालन्थर (पंजाब)	धातवर्ध्य ढलवें लोहे की पाईप फिटिंग्स	1879 1987
24.	9766814	6-11-2009	हिन्दुस्तान एग्रो इण्डस्ट्रीज, ब्रसवन्त थियेटर के सामने, जी टी रोड, मलोट-152 107, मुक्तसर	शक्ति चालित गहराई मशीन सुरक्षा संबंधी अपैक्षिक	9020 2002
25.	9767513	17-12-2009	ओम साई फूड एंड बेवरेजीस, प्लॉट नं. डी 10, फोकल प्लाइंट, चनालोन, एस ए एस नगर, मोहाली	पैकेजबंद पेयजल	14543 2004
26.	9769113	18-1-2010	गगन मेलेएबल्स, उद्योग नगर, गोदाईपुर, जालन्थर	धातवर्ध्य ढलवे लोहे की पाईप फिटिंग्स	1879 1987
27.	9771504	12-1-2010	अंश फूड एंड बेवरेजीस, मधूर होटल के पास, रंजन प्लाजा के पीछे, गाँव पाभत, एस ए एस नगर, मोहाली	पैकेजबंद पेयजल	14543 2004
28.	9772405	1-1-2010	बेस्ट मिल्क प्रोडक्ट्स प्रा. लि., एन एच 64, संगरुर बरनाला रोड, गाँव बडबेर, जिला बरनाला (पंजाब)	मलाईराही दूध पाउडर	13334 2 1992
29.	9772506	1-1-2010	बेस्ट मिल्क प्रोडक्ट्स प्रा. लिमिटेड, एन एच 64, संगरुर बरनाला रोड, गाँव बडबेर, जिला बरनाला, (पंजाब)	दूध पाउडर	1165 2002
30.	9773104	21-1-2010	ओमैक्स मैटल प्रा. लिमिटेड, रिलाईंस पैट्रोल पम्प के सामने, जलालाबाद रोड, मुक्तसर (पंजाब)	घरेलू प्रैशर कुक्कर	2347 2006

(1)	(2)	(3)	(4)	(5)	(6)
31.	9773407	21-1-2010	मिकरॉन आटोस लिमिटेड, डी-47, फोकल प्लाइंट, इण्डस्ट्रीयल एरिया, पटियाला, डेराबासी	घरेलू प्रैशर कुक्कर	2347 2006

[सं. सीएमडी/13 : 11]

पी. के मुख्योपाध्याय, वैज्ञानिक एफ एवं प्रमुख

MINISTRY OF CONSUMERS AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(Bureau of Indian Standards)

New Delhi, the 22nd June, 2011

S.O. 1690.—In pursuance of sub-regulation (5) of the Regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)			
1.	9742190	30-7-2009	M/s. Shiva Bitumen, C-16, Focal Point, Derabassi, Distt. S.A.S.Nagar (Pb.)	Performed fillers for expansion joints in concrete pavements & Structures : Part I Bitumen, impregnated fibre	1838	1		1983
2.	9742901	3-7-2009	M/s. Juneja Steels, Vill. Variana Road, P.O. Nagra, Jalandhar (P.B.)	Ductile Iron Fittings for Pressure Pipes for Water, Gas and Sewage	9523			2000
3.	9743802	11-8-2009	M/s. Crop Chemical India Ltd., C-63-65, Focal Point, Kotkapura, Distt. Faridkot (Pb.)	Dichlorvos Emulsifiable Concentrates	5277			1978
4.	9745297	30-7-2009	M/s. B.R. Agrotech Ltd., Industrial Area, SIDCO Kathua (J & K)	Temephos 50% EC	8498			1977
5.	9746707	25-8-2009	M/s. Aqua Impex Foods, Janbazpora, Baramullah, Kashmir (J & K)	Packaged Drinking Water	14543			2004
6.	9747103	26-8-2009	M/s. Shiva Bitumen, C-16, Focal Point, Derabassi, Distt. S.A.S.Nagar (Pb.)	Bitumen felts for water profing & damp-proofing	1322			1993
7.	9748004	28-8-2009	M/s. Hindustan Pulverising Mills, Unit-IIInd, SIDCO Industrial Growth Centre, J & K, Samba.	Atazine wp	12931			1990
8.	9448307	1-9-2009	M/s. Sonu Engg. Works 20 Kartar Farms, SIDE C-53, Focal Point Extn., Jalandhar.	Malleable Cast Iron Pipe Fittings	1879			1987

1	2	3	4	5	6
9.	9750189	14-9-2009	M/s. Vijay Steel Inds A- I, Phase-II, SIDCO Indl. Complex Bari Brahmana, Jammu.	High Strength Deformed Steel Bars & Wires for Concrete reinforcement	1786 1985
10.	9750593	16-9-2009	M/s. SABAS Foods India Pvt. Ltd., 3-B, Indl., Estate Birpur, Jammu.	Packaged Drinking Water (other than packaged natural mineral water)	14543 2004
11.	9750694	7-9-2009	M/s. H.B. Industries, PO Nurpur, Pathankot Road Jalandhar.	Malleable Cast Iron Pipe Fittings	1879 1987
12.	9752193	18-9-2009	M/s. Upper India Steel, Mfg. & Engg. Co. Ltd., Dhansari Indl. Focal Point, Ludhiana (Punjab)	Steel for Gen Structural	2062 2006
13.	9743401	29-9-2009	M/s. J.K. Tubes Vill. Kangrail, Akhnoor Road Jammu (J & K)	Mild Steel Tubes, Tubulars	1239(Part I) 2004
14.	9753805	20-9-2009	M/s. Best Milk Products (P) Ltd., NH-64, Sangrur Barnala Road, Village Badber, Distt. Barnala(Punjab)	Skimmed Milk Powder Part-I Standard Grade	13334(Part-I) 1998
15.	9754908	30-9-2009	M/s. Ajar Amar Steels 1725/10G, 3 A Focal Point, Ludhiana.	High Strength Deformed Steel Bars & Wires for Concrete Reinforcement	1786 1985
16.	9755506	29-9-2009	M/s. R.K. Industries Jinda Road, Jalandhar (Punjab)	Malleable Cast Iron Fittings	1879 1987
17.	9756609	15-10-2009	M/s. Bhushan Power & Steel Ltd., Chd-Amb Road, S.A.S.Nagar (Mohali)	Hollow Steel Sections for Structural Use	4923 1997
18.	9757813	27-10-2009	M/s. Sangrur Organics (P) Ltd., Opp. Radha Swami Satsang Shanewal-Delhon Road, Ludhiana.	Square Tins for Solid	916 2000
19.	9758916	22-10-2009	M/s. FIL Industries Ltd., SIDCO Electronic Complex, Rangreth J & K (Srinagar)	Packaged Drinking Water (other than packaged natural mineral water)	14543 2004
20.	9759211	30-10-2009	M/s. Sadashiv Castings, Pvt. Ltd., Pandwala Road, Vill. Mubarakpur Derabassi, S.A.S. Nagar, (Mohali)	High Strength Deformed Steel Bars & Wires for Concrete Reinforcement	1786 1985

1	2	3	4	5	6
21.	9759312	30-10-2009	M/s. Sadashiv Castings, Pvt. Ltd., Pandwala Road, Vill. Mubarakpur Derabassi, S. A. S. Nagar, Mohali.	Carbon Steel Cast Billet ingots, billets, blooms & stabs for re-rolling into steel for general structural purposes.	2830 1992
22.	9760394	5-11-2009	M/s. VIE Montana Beverages Pvt. Ltd., Kishanpura, P.O. Chhatt, Teh. Derabassi, S. A. S. Nagar, Mohali.	Packaged Drinking Water (other than packaged Natural mineral water)	14543 2004
23.	9763603	17-11-2009	M/s. Bhasin Metal Inds. 168-169, Udyog Nagar, Behind Focal Point, Godaipur, Jalandhar.	Malleable Cast Iron Fittings	1879 1987
24.	9766814	6-11-2009	M/s. Hindustan Agro Inds., Opp. Jaswant Theatre, G.T. Road, Malaut-152 107	Power Threshers-Safety Requirement	9020 2002
25.	9767513	17-12-2009	M/s. Om Sai Foods & Beverages, Plot No. D-10, Focal Point, Chanalon, S. A. S. Nagar, Mohali.	Packaged Drinking Water (other than packaged Natural mineral water)	14543 2004
26.	9769113	18-1-2010	M/s. Gagan Malleables Udyog Nagar, Godaipur, Jalandhar.	Malleable Cast Iron Fittings	1879 1987
27.	9771504	12-1-2010	M/s. Ansh Foods & Beverages, Near Mayur Hotel, Behind Ranjan Plaza Village Prabhat, S.A.S. Nagar Mohali.	Packaged Drinking Water (other than packaged Natural mineral water)	14543 2004
28.	9772405	1-1-2010	M/s. Best Milk Products (P) Ltd., NH-64, Sangrur Barnala Road, Village Badber, Distt. Barnala.	Skim Milk Powder Part 2-Extra Grade	13334 (Part 2) 1992
29.	9772506	1-1-2010	M/s. Best Milk Products (P) Ltd., NH-64, Sangrur Barnala Road, Village Badber, Distt. Barnala.	Milk Powder	1165 2002
30.	9773104	21-1-2010	M/s. Omex Metals (P) Ltd., Opp. Reliance petrol Pump Jalandhar Road, Mukatsar, Punjab.	Domestic Pressure Cooker	2347 2006
31.	9773407	21-1-2010	M/s. Mikkron Autos Ltd., D-47, Focal Point, Industrial Area, Patiala Derabassi, Punjab.	Domestic Pressure Cooker	2347 2006

[Ref: CMD/13: 11]

P. K. MUKHOPADHYAY, Scientist F and Head

नई दिल्ली, 21 जून, 2011

का.आ. 1691.—भारतीय मानक व्याप्रे (प्रमाणन) विभिन्नम्, 1988 के नियम 6 के उप-नियम (3) के अनुसरण में भारतीय मानक व्याप्रे एतदद्वारा नीचे अनुसूची में दिए गए उत्पादों की

मुहरांकन शुल्क अधिसूचित करता है:-

अनुसूची

संख्या	मानक	भाग	अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन	इकाई	स्लैब 1 में	इकाई दर	स्लैब 2 में	इकाई दर	प्रचलन	
15182	—	—	—	2002	प्रोपीकोनाजोल	100 लीटर	36000	31000	130/-	सभी	—	—	—	5-5-2011
						ई.सी.								[सं : के.मु.वि./13 : 10] यू. के. खेर, वैज्ञानिक जी (प्रमाणन)

New Delhi, the 21st June, 2011

S.O. 1691.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule :—

SCHEDULE

IS No.	Part	Sec	Year	Product	Unit	Minimum Marking	Unit	Unit	Unit	Unit	Remaining	Effective
						Fee	Rate	in	in	in	Date	
						Large Scale	Small Scale	Slab-1	Slab-2	Slab-2		
15182	—	—	2002	Propiconazole	100	36000	31000	130/-	All	—	—	5-5-2011
					EC							

[No. : CMD 13 : 10]

U. K. KHER, Sc. G (Certification)

का.आ. 1692.—भारतीय मानक व्यापर (प्रमाणन) विनियम, 1988 के वियम 6 के अनुसार नीचे अनुसूची में दिए गए उत्पादों की मुहराकन शुल्क अधिसूचित करता है:—

अनुसूची									
भारतीय मानक संख्या	पान अनुभाग वर्ष	उत्पाद	इकाई शुल्क बढ़े पैमाने छोटे पैमाने पर	न्यूताम मुहराकन दर	इकाईयां	स्लैब 1 में इकाईयां	स्लैब 2 में इकाईयां	इकाई दर शेष 2 में शेष लिया	प्रबालन
15236	—	2002	प्रोफेनोफोस + इम्प्रासीफिथ्रिन	100 लीटर 39000	34000 85/-	सभी	—	—	5-5-2011
			साइप्रसेप्टिन	सान्द्र					

[सं : के.मु.वि./13 : 10]
यू. के. खेर, वैज्ञानिक जी (प्रमाणन)

New Delhi, the 21st June, 2011

S.O. 1692.—In pursuance of sub-reregulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:—

SCHEDULE

IS No.	Part	Sec	Year	Product	Unit	Minimum Marking Fee			Remaining in Slab-2	Effective Date
						Large Scale	Small Scale	Slab-1	Slab-2	
15236	—	2002	Profenofos + Cypermethrin	100 Litres	39000	34000	85/-	All	—	5-5-2011

[No. : CMD 13 : 10]
U. K. KHER, Sc. G (Certification)

का.आ. 1693.—भारतीय मानक ल्यूट्रो (प्रमाणन) विनियम, 1988 के उप-नियम (3) के अनुसार में भारतीय मानक ल्यूट्रो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की

मुहरांकन ल्यूट्रक अधिसूचित करता है:-

अनुसूची

भारतीय मानक संख्या	भाग अनुभाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन ल्यूट्रक	इकाई दर	स्लैब 1 में इकाई दर	स्लैब 2 में इकाई दर	प्रचलन शेष तिथि
14937	—	2001	ट्राइजोफाइट	100 लीटर	33000	28000	17/-	सभी	—
			ई.सी.						[सं : के.मु.वि/13 : 10]
					बड़े ऐमाने छोटे ऐमाने पर	पर			5-5-2011

New Delhi, the 21st June, 2011

Regulations 1988, the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian

S.O. 1693.—In pursuance of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of Indian

Standards, hereby notifies the Marking fee for the products given in the schedule:

SCHEDULE

IS No.	Part	Sec	Year	Product	Unit	Minimum Marking Fee	Unit in Large Scale	Unit in Small Scale	Unit in Slab-1	Unit in Slab-2	Remaining Effective Date
14937	—	2001	Triazophos	100 EC	33000	28000	17/-	All	—	—	5-5-2011

[No. : CMD 13 : 10]

U. K. KHER, Sc. G (Certification)

नई दिल्ली, 22 जून, 2011

का. आ. 1694.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतदद्वारा अधिसूचित करता है कि अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 5050 : 1992-विमोचन कूप का डिजाइन, निर्माण व रखरखाव की रीति संहिता (पहला पुनरीक्षण)	संशोधन संख्या । मई, 2011	31 मई, 2011

इस संशोधनों की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: डब्ल्यू आर डी 08/टी-2]

जे. सी. अरोड़ा, वैज्ञानिक 'एफ' एवं प्रमुख (जल संसाधन विभाग)

New Delhi, the 22nd June, 2011

S. O. 1694.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl.No.	No., Title and Year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 5050 : 1992 Code of practice for design, construction and maintenance of relief wells (first revision)	Amendment No. 1 May, 2011	31-5-2011

Copy of this Amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: WRD 08/T-2]

J. C. ARORA, Scientist 'F' & Head (Water Resources Deptt.)

नई दिल्ली, 24 जून, 2011

का. आ. 1695.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतदद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक में संशोधन किया गया है :—

[भाग II]—खण्ड 3(ii)]

अनुसूची

सं. संशोधित भारतीय मानक की संख्या, और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(2) भाल हावे इस 2690 (भाग 2) : 1992	(3) 1 जून, 2011	(4) 30 जून, 2011

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, नायपुर, कानपुर, पटना, पूजे तथा तिरुवनन्तपुरम् में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 24th June, 2011

S. O. 1695.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the amendments to the Indian Standards, particulars of which is given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl.No.	No., and Year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 2690 (part 2) : 1992	1, June 2011	30 June, 2011

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 24 जून, 2011

का. आ. 1696.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये है :—

अनुसूची

क्रम सं. संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1) (2)	(3)	(4)

1. आई एस 4923 : 1997-खोखले इस्पात के खंड संरचनात्मक प्रयोग के लिये-विशिष्ट (दूसरा पुनरीक्षण)

संशोधन संख्या 6
जून, 2011

23 जून, 2011

इस संशोधन की प्रतियो भारतीय मानक व्यूरो, मानक भवन, 9, बैंडादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों ; अहमदाबाद, बंगलौर, भोपाल, मुकनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, ज़यपुर, कानपुर, नागपुर, पट्टना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 19/टी-30]
पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 24th June, 2011

S. O. 1696.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rule, Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Title of the standard(s)	No. and Year of the amendment	Date from which amendment s. effect
(1)	(2)	(3)	(4)
1.	IS 4923 : 1997 Hollow steel sections for structural use-Specification (second revision)	Amendment No. 6 June, 2011	23-6-2011

Copies of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi- 110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: MTD 19/T-30]
P. GHOSH, Scientist 'F' & Head (Met Engg.)

कोयला मंत्रालय

नई दिल्ली, 20 जून, 2011

का. आ. 1697.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की भारा 4 की उप-धारा (1) के अधीन जारी की गई भारत के राजपत्र, भाग-II, खण्ड-3, उपखण्ड (ii), तारीख 13 मार्च, 2011 के पेज 1415 से 1416 पर प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 719, तारीख 8 मार्च, 2011 द्वारा उस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 58.70 हेक्टर (लगभग) या 145.05 एकड़ (लगभग) है, कोयले का पूर्वोक्त करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार को यह समाधान हो गया है कि इस अधिसूचना के उपाबद्ध अनुसूची में विहित की गई उक्त भूमि के भाग में अभिप्राप्य है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे उपाबद्ध का अर्जन करने के अपने आशय की सूचना देती है :—

टिप्पण १ : इस अधिसूचना के अंतर्गत आने वाले क्षेत्र के रेखांक संख्या सी.-I (ई) III/एफआर/854-0211, तारीख 25 फरवरी, 2011 का निरीक्षण कलेक्टर, नागपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, १, काउर्सिल हाउस स्ट्रीट, कोलकाता-700 001 के कार्यालय में या वेस्टर्न कोलफील्ड्स लिमिटेड, (राजस्व विभाग) कोले इस्टेट, सिविल लाइन्स, नागपुर-440 001 (महाराष्ट्र) के कार्यालय में किया जा सकता है।

टिप्पणी 2 : कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की उपधारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है :—

अर्जन के प्रति आक्षेप :

“8(1) कोई व्यक्ति, जो किसी भूमि में, जिसकी बाबत धारा 7 के अधीन अधिसूचना जारी की गई है, हितबद्ध है, अधिसूचना के जारी किए जाने से तीस दिनों के भीतर संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

स्पष्टीकरण :

- (1) इस धारा के अर्थान्तर्गत यह आपत्ति नहीं मानी जाएगी, कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।
- (2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम अधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधी व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझता है, वह या तो धारा-7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।
- (3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता, यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर दिए जाते हैं।”

टिप्पणी 3 : केन्द्रीय सरकार ने कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700 001 को उक्त अधिनियम के अधीन सक्षम प्राधिकारी नियुक्त किया है, जिसे का.आ. संख्यांक 2519, तारीख 27 मई, 1983 के अनुसार भारत सरकार के राजपत्र, भाग-II, खण्ड-3, उपखण्ड (ii) में अधिसूचित किया गया और तारीख 11 जून, 1983 को प्रकाशित किया गया है।

अनुसूची
बाबोदा अंडरग्राउन्ड माईन
नागपुर क्षेत्र¹
जिला नागपुर (महाराष्ट्र)

(रेखांक संख्या सी.-I(ई) III/एफआर/854-0211, तारीख 25 फरवरी, 2011)

क्रम सं.	ग्राम का नाम	पटवारी संक्रिया संख्या ताहसील	जिला	क्षेत्रफल हेक्टर में	टिप्पणी
1.	सावनेर	34 सावनेर	नागपुर	58.70	भाग कुल : 58.70 हेक्टर (लगभग) या 145.05 एकड़ (लगभग)

ग्राम सावनेर में अर्जित किए जाने वाले प्लॉट संख्यांक :

245 भाग, 246 भाग, 248, 249, 250 भाग, 252 भाग, 253 भाग, 266 भाग, 661 भाग, 662, 663, 664, 665 भाग, 666 भाग, 667 भाग, 668 भाग, 669 भाग, 670 भाग, 672 भाग, 673 भाग, 678, 677 भाग, 679 भाग, 681, 682, 683, 684, 685 भाग, 686, 687 भाग, 689, 690, 691, 692, 693, 694, 695, 696 भाग, 697, 698, 699, 700, 701 भाग, 702 भाग, 703, 704 भाग, 715 भाग, 1155, 1156, 1157, 1158, सड़क भाग, कोलार नदी भाग, शासकीय भूमि भाग।

सीमा वर्णन :

क-ख : रेखा बिन्दु 'क' से आरंभ होती है और ग्राम सावनेर के प्लॉट संख्यांक 679, 678, 673, 672, 670, 669, 668, 667, 666, 665, 664, 663 की बाह्य सीमा के साथ जाती है और बिन्दु 'ख' पर मिलती है।

ख-ग : रेखा ग्राम सावनेर के प्लॉट संख्या 662 की बाह्य सीमा के साथ जाती हुई प्लॉट संख्यांक 661, 687, 685, 689, 266, 253, 252, 250, से होकर गुजरती है और प्लॉट संख्यांक 249, 248 की बाह्य सीमा के साथ जाती हुई प्लॉट संख्या 246, शासकीय भूमि तथा प्लॉट संख्या 245 से होकर गुजरती है और बिन्दु 'ग' पर मिलती है।

ग-घ : रेखा प्लॉट संख्या 245 तथा शासकीय भूमि से होकर गुजरती हुई कोलार नदी को पार करती है, और प्लॉट संख्या 696 से होकर गुजरती हुई सड़क पार करती है और प्लॉट संख्यांक 704, 702, 701, 715 से होकर गुजरती है और बिन्दु 'घ' पर मिलती है।

घ-ड : रेखा प्लॉट संख्या 715 की बाह्य सीमा के साथ जाती है और बिन्दु 'ड' पर मिलती है।

ड-च : रेखा सड़क पार करती है और प्लॉट संख्यांक 698, 681 की बाह्य सीमा के साथ गुजरती हुई नदी को पार करती है और बिन्दु 'च' पर मिलती है।

च-छ : रेखा कोलार नदी के उत्तरी किनारे के साथ जाती हुई प्लॉट संख्या 684 की बाह्य सीमा के साथ गुजरती है और बिन्दु 'छ' पर मिलती है।

छ-क : रेखा प्लॉट संख्यांक 663, 664 की बाह्य सीमा के साथ जाती हुई प्लॉट संख्यांक 665, 666, 667, 668, 669, 670, 672, 673, 677, 679 से होकर गुजरती है और आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/36/2009-पीआरआईडब्ल्यू-I]

एस. सी. भाटिया, निदेशक

MINISTRY OF COAL

New Delhi, the 20th June, 2011

S.O. 1697.—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 719 dated the 8th March, 2011, issued under Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in Part - II, Section - 3, Sub-section (ii) of the Gazette of India, dated the 13th March, 2011 at pages 1415 to 1416, the Central Government gave notice of its intention to prospect for coal in 58.70 hectares (approximately) or 145.05 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas the Central Government is satisfied that coal is obtainable in a part of the said lands described in the schedules appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the lands measuring 58.70 hectares (approximately) or 145.05 acres (approximately) and Mining Rights in or over such lands as described in the Schedule appended hereto.

Note 1 : The plan bearing number C-I(E)III/FR/854-0211, dated the 25th February, 2011 of the area covered by this notification may be inspected in the office of the Collector, Nagpur (Maharashtra) or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700 001 or in the office of the General Manager, Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur - 440 001 (Maharashtra).

Note 2 : Attention is hereby invited to the provisions of Section 8 of the aforesaid Act which provides as follows:—

Objections to Acquisition:

“8(1) Any person interested in any land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation:

- (1) It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.
- (2) Every objection under sub-section (1) shall be made to the competent authority in writing and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and

shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under Sub-section (1) of Section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of proceedings held by him, for the decision of that Government.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act."

Note 3: The Coal Controller, 1, Council House Street, Kolkata- 700001 has been appointed by the Central Government as the competent authority under the Act, vide notification number S. O. 2519 dated the 27th May, 1983, published in Part- II, Section 3, Sub-section (ii) of the Gazette of India, dated the 11th June, 1983.

SCHEDULE
WAGHODA UNDERGROUND MINE
NAGPUR AREA
DISTRICT NAGPUR (MAHARASHTRA)

(Plan bearing number C-1(E)III/FR/854-0211, dated the 25th February, 2011)

Sl. No.	Name of village	Patwari Circle number	Tahsil	District	Area in hectares	Remark
1.	Saoner	34	Saoner	Nagpur	58.70	* Part

Total: 58.70 hectares (approximately)
or 145.05 acres (approximately)

Plot numbers to be acquired in village Saoner :

245 Part, 246 Part, 248, 249, 250 Part, 252 Part, 253 Part, 266 Part, 661 Part, 662, 663, 664, 665 Part, 666 Part, 667 Part, 668 Part, 669 Part, 670 Part, 672 Part, 673 Part, 678, 677 Part, 679 Part, 681, 682, 683, 684, 685 Part, 686, 687 Part, 689, 690, 691, 692, 693, 694, 695, 696 Part, 697, 698, 699, 700, 701 Part, 702 Part, 703, 704 Part, 715 Part, 1155, 1156, 1157, 1158, Road Part, Kolar River Part, Government land Part.

Boundary, Description:

A-B : Line start from Point 'A' and passes along the outer boundary of plot numbers 679, 678, 673, 672, 670, 669, 668, 667, 666, 665, 664, 663 of mouza Saoner and meets at Point 'B'.

B-C : Line passes along the outer boundary of plot number 662 then passes through plot numbers 661, 687, 685, 689, 266, 253, 252, 250, then passes along the outer boundary of plot numbers 249, 248, then, proceeds through plot number 246, Government land, plot number 245 and meets at Point 'C'

C-D : Line passes through plot number 245, Government land then crosses the river Kolar, then passes through plot number 696, then crosses the road then passes through plot numbers 704, 702, 701, 715 and meets at Point 'D'.

D-E : Line passes along the outer boundary of plot number 715 and meets at Point 'E'.

E-F : Line crosses the road, then passes along the outer boundary of plot numbers 698, 681, then crosses the river and meets at Point 'F'.

F-G : Line passes along the northern bank of Kolar river, then proceeds along the outer boundary of plot number 684 and meets at Point 'G'.

G-A : Line passes along the outer boundary of plot numbers 663, 664, then passes through plot numbers 665, 666, 667, 668, 669, 670, 672, 673, 677, 679 of village Saoner and meets at starting Point 'A'.

[F. No. 43015/36/2009-PRIW-I]

S. C. BHATIA, Director

नई दिल्ली, 20 जून, 2011

का. आ. 1698.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिग्राह किये जाने की संभावना है;

और उक्त अनुसूची में उल्लिखित, भूमि के क्षेत्र के अंतर्गत आने वाले रेखांक संख्या एसईसीएल/बीएसपी/सीजीएम (पीएलजी)/लैंड/395 तारीख 4 अक्टूबर, 2010 का निरीक्षण कलेक्टर, अनुपपुर (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, कार्डेसिल हाउस स्ट्रीट, कोलकाता-700001 के कार्यालय में या साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में कोयले के लिए पूर्वेक्षण करने के अपने आशय की सूचना देती है;

उक्त अनुसूची में उल्लिखित भूमि में हितबद्ध कोई व्यक्ति—

- (i) संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उसके ऊपर किसी अधिकार के अर्जन पर आक्षेप, या
- (ii) भूमि में या ऐसी भूमि पर कोई अधिकार या भूमि के प्रतिकर के हित के यदि कोई दावा, या
- (iii) खनन पट्टा अर्जन करने के अधीन अधिकारों की पूर्वेक्षण अनुज्ञाप्ति प्रभावहीन हो जाने और भूमि संबंधी सभी नक्शे, चाटों तथा अन्य दस्तावेजों का परिदान, अयस्कों या अन्य खनिजों के नमूनों का भूमि से संग्रहण और उनका सम्बन्धित विश्लेषण करने के लिए तथा उक्त अधिनियम की धारा 13 को उप-धारा (7) में निर्दिष्ट कोई अन्य सुसंगत अभिलेखों या सामग्रियों की तैयारी के लिए प्रतिकर,

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, भारसाधक अधिकारी या विभागाध्यक्ष (राजस्व अनुभाग), साऊथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) को भेजेंगे।

अनुसूची

सीतलधारा-कुरजा भूमिगत खदान, हसदेव क्षेत्र

जिला अनुपपुर (मध्य प्रदेश)

(रेखांक संख्या-एसईसीएल/बीएसपी/सीजीएम (पीएलजी)/लैंड/395 तारीख 4 अक्टूबर, 2010)

तहसील - कोतमा

जिला - अनुपपुर

क्रम सं. ग्राम का नाम	जनरल नम्बर	पटवारी हल्का नम्बर	क्षेत्रफल हेक्टर में	टिप्पणी
1. परसापानी	586	20	81.700	भाग
2. नक्तीटोला	516	20	46.515	भाग

कुल : 128.215 हेक्टर (लगभग)

या 316.82 एकड़ (लगभग)

सीमा वर्णन :

क-ख : रेखा ग्राम परसापानी के पश्चिमी सीमा में बिन्दु 'क' से आरंभ होती है और ग्राम परसापानी के भागत: उत्तरी सीमा से गुजरती हुई बिन्दु 'ख' पर मिलती है।

ख-ग : रेखा ग्राम परसापानी के मध्य भाग से होती हुई ग्राम परसापानी-नक्तीटोला के सम्मिलित सीमा में बिन्दु 'ग' पर मिलती है।

ग-घ : रेखा ग्राम नक्तीटोला के मध्य भाग से होती हुई ग्राम नक्तीटोला के पश्चिमी सीमा में बिन्दु 'घ' पर मिलती है।

घ-क : रेखा ग्राम नक्तीटोला और परसापानी के पश्चिमी सीमा से होती हुई, आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं. 43015/21/2010-पी.आर.आई.डब्ल्यू-1]

एस. सी. भाटिया, निदेशक

New Delhi, the 20th June, 2011

S.O. 1698.—Whereas, it appears to the Central Government that Coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And, Whereas, the plan bearing number SECL/BSP/CGM (PLG)/Land/395 dated the 4th October, 2010 of the area covered by this notification can be inspected at the office of the Collector, Anuppur (Madhya Pradesh) or at the office of the Coal Controller, 1, Council House Street, Kolkata-700001 or at the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur - 495006 (Chhattisgarh);

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal from land described in the said Schedule;

Any persons interested in the land described in the said Schedules may—

- (i) object to the acquisition of the whole or any part of the land, or of any rights in or over such land, or
- (ii) claim an interest in compensation if the land or any rights in or over such land, or
- (iii) seek compensation for prospecting licences ceasing to have effect, rights under mining leases being acquired, and deliver all maps, charts and other documents relating to the land, collection from the land of cores or other mineral samples and due analysis thereof and the preparation of any other relevant record or materials referred to in sub-section (7) of Section 10 of the said Act,

to the Officer-In-Charge or Head of the Department (Revenue Section), South Eastern Coalfields Limited, Seepat Road, Bilaspur - 495006 (Chhattisgarh), within ninety days from the date of publication of this notification in the official Gazette.

SCHEDULE

Sheetaldhara-Kurja U/G Mine, Hasdeo Area District-Anuppur (Madhya Pradesh)

(Plan bearing number SECL/BSP/CGM (PLG)/Land/395 dated the 4th October, 2010)

Tahsil - Kotma				District - Anuppur	
Sl. No.	Name of village	General number	Patwari halka number	Area in hectares	Remarks
1.	Parsapani	586	20	81.700	Part
2.	Naktitola	516	20	46.515	Part

Total : 128.215 hectares (approximately)
or 316.82 acres (approximately)

BOUNDARY DESCRIPTION:—

- A-B Line starts from point 'A' on the western boundary of village Parsapani and passes along partly northern boundary of village Parsapani and meets at point 'B' on the same boundary.
- B-C Line passes through the middle part of village Parsapani and meets at point 'C' on the common boundary of villages Parsapani-Naktitola.
- C-D Line passes through middle part of village Naktitola and meets at point 'D' on the western boundary of village Naktitola.
- D-A Line passes along western boundary of village Naktitola and Parsapani and meets at starting point 'A'.

[F. No. 43015/21/2010-PRIW-I]

S. C. BHATIA, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 21 जून, 2011

का. आ. 1699.—केन्द्रीय सरकार को लोक हित में यह आवश्यक प्रतीत होता है कि उत्तर प्रदेश राज्य में दादरी से हरियाणा राज्य में पानीपत तक, प्राकृतिक गैस के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा आर-एल.एन.जी. स्पर पाइपलाइन बिछाई जानी चाहिए।

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उक्त भूमि में, जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है और जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाने के संबंध में, श्री विद्या शंकर सिंह, संक्षम प्राधिकारी, इंडियन ऑयल कार्पोरेशन लिमिटेड, दादरी-पानीपत गैस पाइपलाइन परियोजना, एस.ए.-4, शास्त्री नगर, नजदीक पुरानी हापुड़ चुंगी, गाजियाबाद (उत्तर प्रदेश) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : दादरी जिला : गौतमबुद्धनगर राज्य : उत्तर प्रदेश¹
गांव का नाम खसरा सं. क्षेत्रफल

		हेक्टेयर	एयर वर्ग मीटर	
(1)	(2)	(3)	(4)	(5)
1. सालारपुर कलाँ	409	0	04	04
	408	0	00	08
	333	0	00	73
	873	0	01	98
	635	0	04	47
	378	0	04	00
	334	0	00	02
	773	0	02	28
	388	0	01	78
	637	0	06	02

	(1)	(2)	(3)	(4)	(5)
1. सालारपुर कलाँ	415	0	00	08	
	734	0	01	08	
	726	0	01	33	
	407	0	02	81	
	392	0	02	49	
	371	0	01	56	
	374	0	00	08	
2. रानौली लतीफपुर	480	0	00	42	
	481	0	00	36	
	500	0	01	89	
	670	0	09	44	
	673	0	10	97	
	675	0	01	41	
	703	0	03	28	
	705	0	20	19	
	706	0	03	74	
	730	0	16	51	
	728	0	05	94	
	733	0	06	52	
	739	0	00	10	
	282	0	08	81	
	281	0	34	54	
	274	0	03	54	
3. बिसाहड़ा	680/2 मिन	0	03	72	
	903/1 मिन	0	13	87	
	830/1 मिन	0	04	00	
	830/2 मिन	0	00	14	
	886/2 मिन	0	00	36	
	681 मिन	0	00	93	
	817/1 मिन	0	07	77	
	555	0	14	43	
	680/2 मिन	0	06	80	
	829 मिन	0	02	62	
	830/1 मिन	0	01	00	
	763 मिन	0	00	20	
	764/1 मिन	0	02	70	
	841/1 मिन	0	05	00	
	845	0	02	14	
	897 मिन	0	02	52	
	711	0	02	99	

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
3. बिसाहड़ा—जारी	848 मिन	0	01	33	7. महावड़—जारी	118	0	01	13
	818 मिन	0	01	35		122	0	02	53
	917/1 मिन	0	00	35		301	0	12	54
	674	0	03	68	8. इस्तलाबाद कल्दा	287	0	00	44
	679/1 मिन	0	01	00		284	0	00	49
	815/1 मिन	0	01	53		258	0	01	67
	756/1039	0	03	46		141	0	00	77
	586/24/296	0	01	88		135	0	02	64
	573/130	0	11	77		288	0	00	05
	631/569	0	00	56		119	0	01	93
4. राजतपुर	586	0	02	19		128	0	01	01
	439	0	00	53		278	0	02	11
	553	0	01	80		126	0	02	63
	552	0	00	40		238	0	01	23
	443	0	00	64	9. कचौड़ा	681	0	05	32
5. कुड़ी खेड़ा	450	0	00	36	वारसाबाद	811	0	02	64
	471	0	03	51		827	0	01	44
	452	0	01	96		43	0	01	44
	401	0	01	04		1023	0	02	07
	360	0	03	66		49	0	00	28
	413	0	04	43		653	0	00	98
	352	0	04	15		741	0	00	79
	389	0	00	15		48	0	00	94
	382	0	02	49		1017	0	01	49
6. बम्बाबड़	487	0	02	25		1008	0	01	38
	507	0	00	11		808	0	00	98
	403	0	02	97		810	0	01	01
	467	0	01	37		1015	0	00	71
	506	0	02	80		826	0	00	95
	468	0	00	71		825	0	01	19
	407	0	00	38		1016	0	00	21
	486	0	01	08		654	0	00	43
	508	0	00	45		772	0	00	06
	509	0	02	52		652	0	00	32
	501	0	01	10		738	0	00	96
7. महावड	97	0	01	53		686	0	08	35
	288	0	00	50		691	0	02	29
	116	0	00	14		765	0	02	19
	268	0	03	40		42	0	00	88
	117	0	01	94					

[फा. सं. एल-14014/3/2011-जीपी]

के. के. शर्मा, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

(1)	(2)	(3)	(4)	(5)
1. Salarpur Kalan	773	0	02	28
(Contd.)	388	0	01	78
	637	0	06	02
	415	0	00	08
	734	0	01	08
	726	0	01	33
	407	0	02	81
	392	0	02	49
	371	0	01	56
	374	0	00	08
2. Ranauli Latifpur	480	0	00	42
	481	0	00	36
	500	0	01	89
	670	0	09	44
	673	0	10	97
	675	0	01	41
	703	0	03	28
	705	0	20	19
	706	0	03	74
	730	0	16	51
	728	0	05	94
	733	0	06	52
	739	0	00	10
	282	0	08	81
	281	0	34	54
	274	0	03	54
3. Bisahra	680/2 Min	0	03	72
	903/1 Min	0	13	87
	830/1 Min	0	04	00
	830/2 Min	0	00	14
	886/2 Min	0	00	36
	681 Min	0	00	93
	817/1 Min	0	07	77
	555	0	14	43
	680/2 Min	0	06	80
	829 Min	0	02	62
	830/1 Min	0	01	00
	763 Min	0	00	20
	764/1 Min	0	02	70
	841/1 Min	0	05	00
	845	0	02	14

SCHEDULE

Tehsil : Dadri	Distt. : Gautam Badhnagar	State : Uttar Pradesh
Name of Village	Khasra No.	Area
		Hectare Are Square Meter
(1)	(2)	(3) (4) (5)
1. Salarpur Kalan	409	0 04 04
	408	0 00 08
	333	0 00 73
	873	0 01 98
	635	0 04 47
	378	0 04 00
	334	0 00 02

[F. No. L-14014/3/2011-G.P.]

नई दिल्ली, 21 जून, 2011

का. आ. 1700.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की नीचे दी गई अनुसूची में यथा उल्लिखित तारीखों की अधिसूचना संख्या का.आ. द्वारा उन अधिसूचनाओं से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था;

और केन्द्रीय सरकार को उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में जो सभी विलंगमें से मुक्त है, उपयोग का अधिकार इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित किया था;

और सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दी है कि आर.एल.एन.जी. के परिवहन के लिए उत्तर प्रदेश के दादरी से हरियाणा राज्य में पानीपत तक दादरी-पानीपत आर.एल.एन.जी. पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा उक्त भूमि में पाइपलाइन बिछाई जा चुकी है अतः उस भूमि के बारे में, जिसका संक्षिप्त विवरण इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट किया गया है, प्रचालन की समाप्ति की जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1963 के नियम 4 के स्पष्टीकरण—१ के अधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 6 में उल्लिखित तारीखों को प्रचालन की समाप्ति की तारीखों के रूप में घोषित करती है।

अनुसूची

का.आ. संख्या एवं तारीख	ग्राम	तहसील	जिला	राज्य	प्रचालन की समाप्ति की तारीख
(1)	(2)	(3)	(4)	(5)	(6)
1095 दिनांक 16-4-2007	महीउद्दीनपुर हिंसाली	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	बसंतपुर सैंतली	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	नबीपुर	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	मिलक चाकरपुर	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	किशन चन्दपुर पट्टी	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	मानौली	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	सुल्ताननगर छञ्जुपुर	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	हुसैनपुर	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	रुहेलापुर	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	बिहंग	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1095 दिनांक 16-4-2007	नेकपुर साबितनगर	मोदीनगर	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1096 दिनांक 16-4-2007	सादतनगर इकला	गाजियाबाद	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1096 दिनांक 16-4-2007	डासना	गाजियाबाद	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1096 दिनांक 16-4-2007	रसूलपुर सिकरोड़	गाजियाबाद	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1096 दिनांक 16-4-2007	सदरपुर	गाजियाबाद	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1096 दिनांक 16-4-2007	मटियाला	गाजियाबाद	गाजियाबाद	उत्तर प्रदेश	12-7-2010
1096 दिनांक 16-4-2007	कानौजा	गाजियाबाद	गाजियाबाद	उत्तर प्रदेश	12-7-2010

(1)	(2)	(3)	(4)	(5)	(6)
1096 दिनांक 16-4-2007	दुहाई	गाजियाबाद	गाजियाबाद	उत्तर प्रदेश	12-7-2010
2469 दिनांक 29-8-2007	बिसाहड़ा	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	सालारपुर कलां	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	दादपुर खताना	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	रानौली लतीफपुर	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	राजतपुर	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	कुड़ी खेड़ा	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	बम्बावड़	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	महावड़	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	इस्लामाबाद कल्दा	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
971 दिनांक 2-4-2007	कचेड़ा वारसाबाद	दादरी	गौतमबुद्ध नगर	उत्तर प्रदेश	17-7-2010
966 दिनांक 2-4-2007	चमरावल	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	खासपुर	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	पांची	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	उकावली	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	खट्टा प्रहलादपुर	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	पावला बेगमाबाद	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	बसा टीकरी	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	गौरीपुर	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	हबीबपुर मजरा	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	मीतली	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	बली	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	पुट्ठी ब्रह्मनान	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	मुकारमपुर	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	ग्यासरी उर्फ गाथी	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	नौरोजपुर गूजर	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	सूजरा	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	सरूरपुर कलां	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	खेड़की	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	शिकोहपुर	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
966 दिनांक 2-4-2007	टवैढी	बागपत	बागपत	उत्तर प्रदेश	5-7-2010

(1)	(2)	(3)	(4)	(5)	(6)
966 दिनांक 2-4-2007	राजपुर खामपुर	बागपत	बागपत	उत्तर प्रदेश	5-7-2010
967 दिनांक 2-4-2007	गौना	खेकड़ा	बागपत	उत्तर प्रदेश	5-7-2010
967 दिनांक 2-4-2007	शहबानपुर	खेकड़ा	बागपत	उत्तर प्रदेश	5-7-2010
967 दिनांक 2-4-2007	ललयाना	खेकड़ा	बागपत	उत्तर प्रदेश	5-7-2010
967 दिनांक 2-4-2007	भंसूरपुर	खेकड़ा	बागपत	उत्तर प्रदेश	5-7-2010
967 दिनांक 2-4-2007	खैला	खेकड़ा	बागपत	उत्तर प्रदेश	5-7-2010
967 दिनांक 2-4-2007	रावण उर्फ बड़ा गांव	खेकड़ा	बागपत	उत्तर प्रदेश	5-7-2010
967 दिनांक 2-4-2007	महरमपुर	खेकड़ा	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	दिकाना	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	लुहारी	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	अकबरपुर ठसका बांगर	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	कोताना बांगर	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	जागोस बांगर	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	जागोस खादर	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	कोताना बांगर	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	जागोस बांगर	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010
968 दिनांक 2-4-2007	जागोस खादर	बड़ौत	बागपत	उत्तर प्रदेश	5-7-2010

[फा. सं. एल-14014/34/2010-जीवी]

के. के. शर्मा, अवर सचिव

New Delhi, the 21st June, 2011

S.O. 1700.—Whereas, by notifications of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. and date as mentioned in the schedule attached issued under sub-section (1) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government acquired the right of user in the lands specified in the Schedule appended to those notifications;

And, whereas, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government vested the right of user in the said land, free from all encumbrances in the Indian Oil Corporation Limited;

And, whereas, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transportation of RLNG from Dadri in the state of U.P to Panipat in the state of Haryana by Indian Oil Corporation Limited has been laid in the said land, so the operation may be terminated in respect of the land the description of which in brief is specified in the Schedule annexed to this notification;

Now, therefore, as required under explanation-1 of rule 4 of the Petroleum Pipelines (Acquisition of Right of User in Land) Rules, 1963, the Central Government hereby declares the dates mentioned in Column 6 of the said Schedule as the dates of termination of operation.

SCHEDULE

S.O.No & date	Name of the village	Tehsil	District	State	Date of termination of operation
(1)	(2)	(3)	(4)	(5)	(6)
1095 dt. 16-4-2007	Mohiuddinpur Hisali	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Basantpur Saintli	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Nabipur	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Milak Chakarpur	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Kishan Chandpur Patti	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Manauli	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Sultanagar Chajjupur	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Hussainpur	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Rohillapur	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Bihang	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1095 dt. 16-4-2007	Nekpur Sabit Nagar	Modinagar	Ghaziabad	Uttar Pradesh	12-7-2010
1096 dt. 16-4-2007	Saadatnagar Iqla	Ghaziabad	Ghaziabad	Uttar Pradesh	12-7-2010
1096 dt. 16-4-2007	Dasna	Ghaziabad	Ghaziabad	Uttar Pradesh	12-7-2010
1096 dt. 16-4-2007	Rasulpur Sikrauda	Ghaziabad	Ghaziabad	Uttar Pradesh	12-7-2010
1096 dt. 16-4-2007	Sadarpur	Ghaziabad	Ghaziabad	Uttar Pradesh	12-7-2010
1096 dt. 16-4-2007	Matiyala	Ghaziabad	Ghaziabad	Uttar Pradesh	12-7-2010
1096 dt. 16-4-2007	Kanauja	Ghaziabad	Ghaziabad	Uttar Pradesh	12-7-2010
1096 dt. 16-4-2007	Duhai	Ghaziabad	Ghaziabad	Uttar Pradesh	12-7-2010
2469 dt. 29-8-2007	Bisahra	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Salarpur Kalan	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Dadupur Khatana	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Ranauli Latifpur	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Razatpur	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Kuri Khera	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Bambawar	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Mahawar	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010

(1)	(2)	(3)	(4)	(5)	(6)
971 dt. 2-4-2007	Islamabad Kalda	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
971 dt. 2-4-2007	Kochehra Warsabad	Dadri	Gautam Budh Nagar	Uttar Pradesh	17-7-2010
966 dt. 2-4-2007	Chamrawal	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Khaspur	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Panchi	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Ukawali	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Khatta Prahladpur	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Pawla Begmabad	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Basa Tikri	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Gauri Pur	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Habibpur Majra	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Mitli	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Bali	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Putti Brahamnan	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Mukarmpur	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Gyasri Urf Gadhi	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Naurojpur Goojar	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Soojra	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Sarurpur Kalan	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Kherki	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Shikohpur	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Tyodhi	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
966 dt. 2-4-2007	Rajpur Khainpur	Baghpat	Baghpat	Uttar Pradesh	5-7-2010
967 dt. 2-4-2007	Gauna	Khekra	Baghpat	Uttar Pradesh	5-7-2010
967 dt. 2-4-2007	Shahwanpur	Khekra	Baghpat	Uttar Pradesh	5-7-2010
967 dt. 2-4-2007	Lalyana	Khekra	Baghpat	Uttar Pradesh	5-7-2010
967 dt. 2-4-2007	Mansurpur	Khekra	Baghpat	Uttar Pradesh	5-7-2010
967 dt. 2-4-2007	Khaila	Khekra	Baghpat	Uttar Pradesh	5-7-2010
967 dt. 2-4-2007	Rawan Urf Baragaon	Khekra	Baghpat	Uttar Pradesh	5-7-2010
967 dt. 2-4-2007	Mehrampur	Khekra	Baghpat	Uttar Pradesh	5-7-2010
968 dt. 2-4-2007	Dhikana	Baraut	Baghpat	Uttar Pradesh	5-7-2010
968 dt. 2-4-2007	Luhari	Baraut	Baghpat	Uttar Pradesh	5-7-2010
968 dt. 2-4-2007	Akbarpur Thaska Bangar	Baraut	Baghpat	Uttar Pradesh	5-7-2010

(1)	(2)	(3)	(4)	(5)	(6)
968 dt. 2-4-2007	Kotana Bangar	Baraut	Baghpat	Uttar Pradesh	5-7-2010
968 dt. 2-4-2007	Jogos Bangar	Baraut	Baghpat	Uttar Pradesh	5-7-2010
968 dt. 2-4-2007	Jogos Khadar	Baraut	Baghpat	Uttar Pradesh	5-7-2010

[No. L-14014/34/2010 GP]

K. K. SHARMA, Under Secy.

नई दिल्ली, 23 जून, 2011

का. आ. 1701.—केन्द्रीय सरकार, पेट्रोलियम और खेतीज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 6 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की नीति दी गई अनुसूची में यथा उल्लिखित तारीखों की अधिसूचना संख्या का.आ. द्वारा उन अधिसूचनाओं से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया था;

और केन्द्रीय सरकार को उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में, जो सभी विलंगमां से मुक्त है, उपयोग का अधिसूचनाओं से संलग्न का अधिकार इंडियन ऑयल कॉर्पोरेशन लिमिटेड में, निहित किया था;

और सक्षम प्राधिकारी ने केन्द्रीय सरकार को यह रिपोर्ट दी है कि आंध्र प्रदेश राज्य में चैनै से बैंगलुरु तक पेट्रोलियम उत्पाद के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जा चुकी है। अतः उस भूमि में प्रचालन की समाप्ति की जाए जिसका संक्षिप्त विवरण इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट किया गया है।

अतः अब, केन्द्रीय सरकार, पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) नियम, 1963 के नियम 4 के स्पष्टीकरण-1 के अधीन अपेक्षानुसार उक्त अनुसूची के स्तंभ 7 में उल्लिखित तारीखों को प्रचालन की समाप्ति की तारीखों के रूप में घोषित करती है।

अनुसूची

क्रम सं.	का.आ. सं. एवं तारीख	गांव का नाम	मंडल	जिला	राज्य	प्रचालन की समाप्ति की तारीख
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	437 25-2-2008	73, पलामानेर	पलामानेर	चिन्नूर	आंध्र प्रदेश	30-4-2010
2.	438 25-2-2008	81, पेट्रोलियलिंगुंटा 83, गोल्लाचीमनापल्लि 84, आलापल्लि	बैरेहडीपल्लि बैरेहडीपल्लि बैरेहडीपल्लि	चिन्नूर चिन्नूर चिन्नूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010
3.	439 25-2-2008	28, श्रीहरिपुरम 29, महाराजापुरम 32, पाथअरकोड	विजयपुरम विजयपुरम विजयपुरम	चिन्नूर चिन्नूर चिन्नूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010
4.	440 25-2-2008	46, क्रिष्णजम्मापुरम 47, श्रीकावेरिराजुपुरम 48, पालसमुद्रम 49, वैंगलराजुपप्प 50, अमुदला 51, अमिदुला पुतुर	पालसमुद्रम पालसमुद्रम पालसमुद्रम पालसमुद्रम पालसमुद्रम	चिन्नूर चिन्नूर चिन्नूर चिन्नूर चिन्नूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
5.	441	52, थुगंद्रम	गंगाधरनेल्लोर	चिन्नूर	आंध्र प्रदेश	30-4-2010

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	25-2-2008	53, अम्बोदरापल्ले 54, एल्लापेल्ले	गंगाधरनेल्लोर गंगाधरनेल्लोर	चित्तूर	आंध्र प्रदेश	30-4-2010
6.	680	75, मारेडुपल्लि 76, दंडपल्ले 77, जीडिमाकुलापल्लि 78, मामाडुगु 79, पथिकोंडा 80, कीलापल्लि	गंगावरम गंगावरम गंगावरम गंगावरम गंगावरम गंगावरम	चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
7.	681	55, अनंतपुरमु 27-3-2008 56, आरातोला (मुतुकुर)	चित्तूर	चित्तूर	आंध्र प्रदेश	30-4-2010
		57, तालांबेडु 58, चित्तलगुंटा 59, पेरुमाल्लाकोडिंगा 60, नारिणापल्लि 61, अनुप्पाल्ले	चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर	चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
8.	682	63, माधवरम 27-3-2008 64, पेरियांबाडि 65, यादमारि 66, बुडिटिरेडिपल्ले	यादमारि	चित्तूर	आंध्र प्रदेश	30-4-2010
		67, कूर्माइपल्ले 68, कल्लुरूपल्ले 69, जंबुवरिपल्लि 70, गोल्लापल्ले 71, पालेरू 72, मोगिलि	बंगारूपालेम बंगारूपालेम बंगारूपालेम बंगारूपालेम बंगारूपालेम बंगारूपालेम	चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
9.	683	74, गंगावरम 29-5-2008	गंगावरम	चित्तूर	आंध्र प्रदेश	30-4-2010

अतिरिक्त अधिसूचनाएं

क्रम सं	का.आ. सं. एवं तारीख	गांव का नाम	मंडल	जिला	राज्य	प्रचालन की समाप्ति की तारीख
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	3122 11-11-2008	47, श्रीकावेरिराजुपुरम 48, पालसमुद्रम 49, बेंगलराजुकुप्पम 50, अमुदला 51, अमिदुला षुतुर	पालसमुद्रम पालसमुद्रम पालसमुद्रम पालसमुद्रम पालसमुद्रम	चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
2.	3123 11-11-2008	55, अनंतपुरम 57, तालांबेडु 58, चित्तलगुंटा	चित्तूर चित्तूर चित्तूर	चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010

(1)	(2)	(3)	(4)	(5)	(6)	(7)
		60, नारिगापल्लि	चित्तूर	चित्तूर	आंध्र प्रदेश	30-4-2010
		61, अनुप्पाल्ले	चित्तूर	चित्तूर	आंध्र प्रदेश	30-4-2010
3.	3124 11-11-2008	74, गंगावरम 75, मारेडुपल्लि 76, दंडपल्ले 78, मामाडुगु 79, पथिकोंडा 80, कीलापल्लि	गंगावरम गंगावरम गंगावरम गंगावरम गंगावरम गंगावरम	चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
4.	3125 11-11-2008	28, श्रीहरिपुरम 29, महाराजापुरम 32, पाथअरकोड	विजयपुरम विजयपुरम विजयपुरम	चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010
5.	3126 11-11-2008	83, गोल्लाचीमनापल्लि 84, आलापल्लि	बैरेडिपल्लि बैरेडिपल्लि	चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010
6.	3127 11-11-2008	69, जंबुवरिपल्लि 70, गोल्लापल्ले 72, मोगिलि	बंगारूपालेम बंगारूपालेम बंगारूपालेम	चित्तूर चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010 30-4-2010
7.	3128 11-11-2008	64, पेरियांबाडि 66, बुडिटिरेडिपल्ले	यादामारि यादामारि	चित्तूर चित्तूर	आंध्र प्रदेश आंध्र प्रदेश	30-4-2010 30-4-2010
8.	379 13-2-2009	60, नारिगापल्लि	चित्तूर	चित्तूर	आंध्र प्रदेश	30-4-2010
9.	380 13-2-2009	63, माधवरम	यादामारि	चित्तूर	आंध्र प्रदेश	30-4-2010
10.	381 13-2-2009	52, थुगुंदम	गंगाधरनेल्लोर	चित्तूर	आंध्र प्रदेश	30-4-2010

[फा. सं. 25011/5/2007-ओ.आर-1]

बी. के. दत्ता अवर सचिव

New Delhi, the 23rd June, 2011

S.O. 1701.—Whereas, by notifications of the Government of India, Ministry of Petroleum and Natural Gas number S.O. and date as mentioned in the Schedule below issued under sub-section (1) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962) the Central Government acquired the Right of User in the lands specified in the Schedule appended to those notifications.

And, whereas, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government vested the Right of User in the said land free from all encumbrances in the Indian Oil Corporation Limited.

And, whereas, the Competent Authority has made a report to the Central Government that the pipeline for the purpose of transportation of petroleum products from Refinery of Chennai Petroleum Corporation Limited, Manali to Devanguthi Terminal, Bangalore, in the State of Andhra Pradesh has been laid in respect of said lands, so the operation may be terminated in respect of the ROW (Right of Way) in land, description of which in brief is specified in the Schedule annexed to this notification;

Now, therefore, as required under explanation-1 of rule 4 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963, the Central Government hereby declares the dates mentioned in Column 7 of the said Schedule as the dates of termination of operation.

SCHEDULE

Sl. No.	S.O. No. and Date	Name of the Village	Mandal	District	State	Date of termination of operation
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	437 25-2-2008	73, Palamaner	Palamaner	Chittoor	Andhra Pradesh	30-4-2010
2.	438 25-2-2008	81, Peddachellarigunta 83, Gollacheemanapalli 84, Alapalli	Baireddypalli Baireddypalli Baireddypalli	Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010
3.	439 25-2-2008	28, Sriharipuram 29, Maharajapuram 32, Patha Arcod	Vijayapuram Vijayapuram Vijayapuram	Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010
4.	440 25-2-2008	46, Krishnajammapuram 47, Srikaverirajupram 48, Palasamudram 49, Vengalrajukuppam 50, Amudala 51, Amudala Puttur	Palasamudram Palasamudram Palasamudram Palasamudram Palasamudram Palasamudram	Chittoor Chittoor Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
5.	441 25-2-2008	52, Thugundram 53, Ambodarapalle 54, Ellapelle	Ganga- dharanellore Ganga- dharanellore Ganga- dharanellore	Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010
6.	680 27-3-2008	75, Maredupalli 76, Dandapalle 77, Jeedimakulapalli 78, Mamdugu 79, Pathikonda 80, Keelapalli	Gangavaram Gangavaram Gangavaram Gangavaram Gangavaram Gangavaram	Chittoor Chittoor Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
7.	681 27-3-2008	55, Anantapuram 56, Arathola (Muthukur) 57, Thalambedu 58, Chintalagunta 59, Perumallakandiga 60, Narigapalli 61, Anupalle	Chittoor Chittoor Chittoor Chittoor Chittoor Chittoor Chittoor	Chittoor Chittoor Chittoor Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
8.	682 27-3-2008	63, Madhavaram 64, Periyambadi 65, Yadamarai 66, Buditireddipalle	Yadmai Yadmai Yadmai Yadmai	Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010
9.	683 27-3-2008	67, Kurmaipalle 68, Kallurupalle 69, Jambuvaripalli 70, Gollapalle	Bangarupalem Bangarupalem Bangarupalem Bangarupalem	Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010

(1)	(2)	(3)	(4)	(5)	(6)	(7)
		71, Paleru 72, Mogili	Bangarupalem Bangarupalem	Chittoor Chittoor	Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010
10.	1280 29-5-2008	74, Gangavaram	Gangavaram	Chittoor	Andhra Pradesh	30-4-2010

(Supplementary Notifications)

Sl. No.	S.O. No. and Date	Name of the Village	Mandal	District	State	Date of Termination of operation
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	3122 11-11-2008	47, Srikaverirajupuram 48, Palasamudram 49, Vengalrajukuppam 50, Amudala 51, Amidala Puttur	Palasamudram Palasamudram Palasamudram Palasamudram Palasamudram	Chittoor Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
2.	3123 11-11-2008	55, Anantapuram 57, Thalambedu 58, Chintalagunta 60, Narigapalle 61, Anupalle	Chittoor Chittoor Chittoor Chittoor Chittoor	Chittoor Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
3.	3124 11-11-2008	74, Gangavaram 75 Maredupalli 76, Dandapalle 78, Mamadugu 79, Pathikonda 80, Keelapalli	Gangavaram Gangavaram Gangavaram Gangavaram Gangavaram Gangavaram	Chittoor Chittoor Chittoor Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010 30-4-2010
4.	3125 11-11-2008	28, Sriharipuram 29, Maharajapuram 32, Patha Arcod	Vijayapuram Vijayapuram Vijayapuram	Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010
5.	3126 11-11-2008	83, Gollacheemanapalli 84, Alapalli	Baireddypalli Baireddypalli	Chittoor Chittoor	Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010
6.	3127 11-11-2008	69, Jambuvaripalli 70, Gollapalle 72, Mogili	Bangarupalem Bangarupalem Bangarupalem	Chittoor Chittoor Chittoor	Andhra Pradesh Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010 30-4-2010
7.	3128 11-11-2008	64, Periyambadi 66, Buditireddipalle	Yadamai Yadamai	Chittoor Chittoor	Andhra Pradesh Andhra Pradesh	30-4-2010 30-4-2010
8.	379 13-2-2009	60, Narigapalli	Chittoor	Chittoor	Andhra Pradesh	30-4-2010
9.	380 13-2-2009	63, Madhavaram	Yadamai	Chittoor	Andhra Pradesh	30-4-2010
10.	381 13-2-2009	52, Thugundram	Ganga- dharanellore	Chittoor	Andhra Pradesh	30-4-2010

[F. No. R-25011/5/2007-OR-I]

B. K. DUTTA, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 26 मई, 2011

का.आ. 1702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर, एमईएस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 2/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-5-2011 को प्राप्त हुआ था।

[सं. एल-13011/1/2010-आई आर(डी.यू.)],

जोहन तोपनो, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 26th May, 2011

S.O. 1702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.2/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Garrison Engineer, MES and their workman, which was received by the Central Government on 26-5-2011.

[No. L-13011/1/2010-IR(DU)]

JOHAN TOPNO, Under Secy.

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

सी.जी.आई.टी. प्रकरण सं. 2/2011

श्री एन. के. पुरोहित, पीठासीन अधिकारी

विज्ञप्ति सं. (रेफरेन्स नं. L-13011/1/2010-IR(DU) दिनांक
8-12-2010

The Secretary,
MES employees Union, (INTUC)
I, Hanuman Hatta, Gali No.1,
Bikaner (Raj.)

V/S

The Garrison Engineer (North),
M. E. S.,
Bikaner (Raj.)

: पंचाट :

दिनांक 28-4-2011

केन्द्रीय सरकार के द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद औद्योगिक विवाद अधिनियम 1947 की धारा 10 के अन्तर्गत न्याय निर्णय किए जाने हेतु निर्देश किया।

“Whether the action of the management of the Garrison Engineer, North, MES, Bikaner in not

accepting the claim of the stepping up of the workman Shri Babu Singh, Mate Fitter (Pipe) is legal and justified? If not, to what relief the workman is entitled to?

निर्देश प्राप्त होने के बाद पक्षकारों को नोटिस जारी किए गए उनकी प्राप्ति अधिस्थीकृत अभिलेख पर है। जिससे प्रगट होता है कि पक्षकारों पर रजिस्टर्ड नोटिस की तारीख हो गई है । लेकिन उसके उपरान्त दिनांक 22-3-2011 को उभयपक्ष की तरफ से कोई भी उपस्थित नहीं हुआ। पत्रावली में अग्रिम तारिख 28-4-2011 निश्चित की गई लेकिन उस दिन भी कोई पक्षकार उपस्थित नहीं हुआ। अतः पत्रावली को पंचाट पारित करने हेतु आरक्षित किया गया।

यद्यपि प्रार्थी पक्ष के अनुपस्थित होने के आधार पर निर्देश को खारिज नहीं किया जा सकता लेकिन वर्तमान मामले में चूंकि उभय पक्ष की तरफ से कोई उपस्थित नहीं हुआ है तथा प्रार्थी की और से न कोई स्टेटमेंट ऑफ क्लेम पेश हुआ है व न ही अभिलेख पर ऐसी कोई मौखिक या दस्तावेजी साक्ष्य है अतः निर्देश का निर्णय युणावगुण पर किया जाना सम्भव नहीं है। उक्त परिस्थितियों में “नो क्लेम अवार्ड” पारित किया जाता है। निर्देश का उत्तर तदनानुसार दिया जाता है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जावे।

एन. के. पुरोहित, पीठासीन अधिकारी

नई दिल्ली, 26 मई, 2011

का.आ. 1703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 25/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-5-2011 को प्राप्त हुआ था।

[सं. एल-40011/46/2007-आई आर(डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th May, 2011

S.O. 1703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.25/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Post and their workman, which was received by the Central Government on 26-5-2011.

[No. L-40011/46/2007-IR(DU)]

JOHAN TOPNO, Under Secy.

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर
सी.जी.आई.टी. प्रकरण सं. 25/2008
श्री एन. के. पुरेहित, पीठासीन अधिकारी

विज्ञप्ति सं. (रेफरेन्स नं. L-40011/46/2007-IR (DU) दिनांक
7-1-2008

जनरल सेकेटरी,
हिन्द मजदूर सभा
बंगली कॉलोनी, छावनी
कोटा राजस्थान
बनाम
सुपरिनेंट
डिपार्टमेंट ऑफ पोस्ट,
पोस्ट ऑफिस टॉक मन्डल,
टॉक राजस्थान
: पंचाट :

दिनांक 28-4-2011

केन्द्रीय सरकार के द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद औद्योगिक विवाद अधिनियम 1947 की धारा 10 के अन्तर्गत न्याय निर्णय किए जाने हेतु निर्देश किया ।

“Whether the demand of the Hind Mazdoor Sabha for regular is action of service of Smt. Kailashi Bai by the management of Superintendent, Post Offices, Tonk is legal and justified ? If yes, to what relief the workman is entitled to ?”

निर्देश प्राप्त होने के बाद पक्षकारों को नोटिस जारी किए गए । पत्रावली के अवलोकन से यह प्रगट होता है कि श्रमिक श्रीमति कैलाशी बाई की तरफ से प्रार्थी यूनियन द्वारा स्टेटमेंट ऑफ क्लेम दिनांक 12-5-2009 को प्रस्तुत किया गया था लेकिन उक्त तिथि को पीठासीन अधिकारी की नियुक्ति नहीं हुई थी इसलिए पीठासीन अधिकारी की नियुक्ति पर पुनः नोटिस जारी किए गए । पत्रावली के अवलोकन से यह भी प्रगट होता है कि दिनांक 26-5-2010 को अप्रार्थी की ओर से श्री तेजप्रकाश शर्मा अधिवक्ता ने अधिकार पत्र प्रस्तुत किया व दिनांक 15-11-2010 को क्लेम का जवाब प्रस्तुत किया । उक्त तिथि को उपस्थित होने हेतु नोटिस पर तामील होने के बावजूद प्रार्थी पक्ष की तरफ से कोई उपस्थित नहीं हुआ । इसलिए एक-पक्षीय कार्यवाही का आदेश पारित किया गया । ततपश्चात् दिनांक 15-12-2010 को अप्रार्थी पक्ष के द्वारा दस्तावेज प्रस्तुत किए गए व विपक्षी की साक्ष्य हेतु दिनांक 14-2-2011 निश्चित की गई उस दिन विपक्षी ने साक्ष्य हेतु अवसर चाहा लेकिन आगामी दिनांक 12-4-2011 को अप्रार्थी की ओर से भी कोई उपस्थित नहीं था । उक्त परिस्थितियों में प्रकरण का पंचाट पारित करने हेतु आरक्षित किया गया ।

क्लेम स्टेटमेंट में यह अधिकथित किया गया है कि श्रमिक कैलाशी बाई 23 वर्षों से दैनिक वेतन पर सफाई-कर्मचारी के पद पर कार्यरत है व उसे स्थायी नहीं किया गया है तथा श्रमिक से बाद में नियोजित किये हुए कई कर्मचारी को जो उससे कनिष्ठ है, स्थायी कर दिया गया । प्रार्थीया को सफाई-कर्मचारी के पद पर स्थायी किये जाने के लिए मांग की है ।

अप्रार्थी पक्ष ने प्रार्थीया के क्लेम को अस्वीकार करते हुए कहा है कि सफाई-कर्मचारी का कोई पद स्वीकृत नहीं है । सफाई कार्य हेतु कट्टीजेस्सी भत्ता स्वीकृत है व उसी से सफाई करने वाले को भुगतान किया जाता है । अतः प्रार्थना -पत्र निरस्तनिय है ।

चूंकि क्लेम प्रार्थी यूनियन ने पेश किया है इसलिए क्लेम में अधिकथित तथ्यों को साबित करने का प्रारम्भिक भार भी उस पर था लेकिन इस सम्बन्ध में कोई मौखिक व दस्तावेजी साक्ष्य प्रस्तुत नहीं की है । ऐसा प्रतीत होता है कि श्रमिक कैलाशी बाई व सम्बन्धित यूनियन को मामले को आगे चलाने में कोई रुची नहीं रही है । उक्त परिस्थितियों में गुणावगुण के आधार पर निर्देश (रेफरेन्स) का निर्णय किया जाना सम्भव नहीं है । इसलिए “नो क्लेम अवार्ड” पारित किया जाता है निर्देश का उत्तर तदनुसार दिया जाता है ।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जावे ।

एन. के. पुरेहित, पीठासीन अधिकारी

नई दिल्ली, 26 मई, 2011

का.आ. 1704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/71/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-5-2011 को प्राप्त हुआ था।

[सं. एल-40012/127/2001-आई आर(डी.यू.)]

जोहन तोपनो, अवर सचिव

New Delhi, the 26th May, 2011

S.O. 1704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.CGIT/ NGP/71/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 26-5-2011.

[No. L-40012/127/2001-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/71/2001 Date: 13-5-2011

Party No. 1

The Superintendent Engineer,
Postal Civil Circle, 3rd floor,
Sion Post Office Building,
Sion, Mumbai

Party No. 1-A

The Executive Engineer,
Postal Civil Division, 1st floor,
Panchsheel Library, North Ambazari Road,
Nagpur-440010

Versus

Party No. 2

Shri Sitaram Arjunrao Kashirsagar,
R/o 134, New Balaji Nagar, Manewada Road,
Nagpur-440027.

AWARD

(Dated : 13th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the Superintending Engineer, the Executive Engineer, Postal Civil Circle, 3rd floor, Sion Post Office, Postal Civil Division, 1st floor and their workman, Shri Sitaram Arjunrao Kashirsagar for adjudication, as per letter No. L-40012/127/2001-IR (DU) dated 31-8-2001 with the following schedule :—

"Whether the action of the management of the Superintending Engineer, Postal Civil Circle, Sion Post Office Building, Mumbai and (ii) The Executive Engineer, Postal Civil, Division, Nagpur in terminating the services of Sh. Sitaram Arjunrao Kashirsagar R/o 134, Balaji Nagar, Manewada Road, Nagpur w.e.f. 30-11-2000 is legal, proper and justified? If not, to what relief the said workman is entitled to and from what date ?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the workman, Shri Sitram Arjunrao Kashirsagar ("the workman" in short) filed his statement of claim and the management of the Superintending Engineer, Postal Civil Circle and the Executive Engineer, Postal, Civil Division ("the Party No. 1 & 1A" in short) filed their written statement.

The case of the workman, as projected in the statement of claim is that he is a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947 ("the Act" in short)

and he has passed Class-XII and also typing examination in English, Marathi and Hindi and he belongs to other backward category and he had registered his name with employment exchange in the year 1985 and he is duly qualified for the post of Typist and he made an application for the post of Typist to the Party No.1 and 1 (A) for appointment in the post of Typist and the party No.1 (A) called him and conducted written and oral tests and finding him duly qualified, appointed him as a Typist in the month of October, 1993 against the permanent vacancy of a Typist reserved for OBC category and orally directed him to perform the duty as a Typist and accordingly, he joined his duties in the month of October, 1993 and was posted in the office of the Party No. 1 (A) in a consolidated salary of Rs. 700 per month and he was working throughout the month and he was entrusted with the duties of preparing bills, letters and other communications and his duty hour was from 9.00 am to 6.00pm and he had completed 240 days of service and thus, had acquired the status of a permanent employee and he worked till October, 1995, with the monthly salary of Rs. 700, after which, his salary was raised to Rs. 1200 per month and though he was working against a permanent vacancy, he was being paid salary of Rs. 1200 per month, whereas, the Typist working in permanent establishment with the Central Government were getting salary of about Rs. 6000 per month and in the month of November, 2000, when he approached the Party No. 1(A) to pay salary at par with the Typist working in the permanent establishment and to pay the differential salary from the date of his appointment, the Party No. 1 (A) orally terminated his service w.e.f. 31-11-2000 (wrong date has been mentioned as month of November consists of only 30 days) and the oral order of termination is illegal and improper, as there was no compliance of the provisions of Section 25-F of the Act and while terminating his service, his juniors were retained in service by the Party No.1(A), in violation of the mandatory provisions of Section 25-G of the Act and as the order of termination is illegal, he is entitled for reinstatement in service with continuity, full back wages and all consequential benefits.

3. It is pleaded by the Party No.1 and 1(A) in the written statement that the Party No.2 is not a workman as defined under the Act and he was engaged only for some typing job work on contract basis and as such, he cannot be defined as a workman and the Party No.2 was never appointed against any permanent vacancy reserved for OBC category and he was not directed to perform the duties of a Typist and he was never appointed as a Typist with a consolidated salary of Rs. 700 per month and for typing job work, quotations were called for from three different parties and on the basis of lowest rate, the job work was given on fixed remuneration of Rs. 700 per month and the Party No.2 was doing the job of typing on purely contract basis and as such, question of accountability of hours or days does not arise and due to increase in the rate of typing in the market as well as, the increase in the quantum of job work, the remuneration of the Party No.2

was increased upto Rs. 1200 per month, as the rates per job and no appointment letter was given to the Party No.2 and as such, termination of his service does not arise and as there was continuous decrease in the work load and posting of typing knowing staff, the job which was entrusted to the Party No. 2 was discontinued, in the interest of department and there was never any oral termination of the service of Party No. 2 w.e.f. 30-11-2000 and therefore, there was no question of compliance of the provisions of Section 25-F of the Act and as such, there is no question of violation of provisions of any section of the Act and the Party No. 2 is not entitled for any relief.

4. It is necessary to mention here that an ex-parte award had been passed against the Party No. 1(A) on 28-4-2005 and the Party No. 1 challenged the ex-parte award before the Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur in writ petition No.5110/2005 and the writ petition was allowed and the ex-parte award dt. 25-4-2005 was quashed and set aside by the Hon'ble Court and direction was given by the Hon'ble Court for disposal of the reference afresh in accordance with law.

5. Beside the documentary evidence, both the parties led oral evidence in support of their respective claims. The workman examined himself as a witness in support of his claim. One Shri Prakash Narayan Kulkarni, Senior Accounts Officer of the office of the Executive Engineer, Postal Civil Division, Nagpur was examined as a witness on behalf of the management.

The workman in his examination-in-chief, which is on affidavit has reiterated the facts mentioned in his statement of claim. However, in his cross-examination, he has admitted that he has not filed the employment registration card in this case and there was no advertisement for calling of applications for the post of Typist in the year 1993 and he did not receive any call letter for interview and he did not apply for the post and he did not know the pay scale of the Typist. He has further admitted that he signed the vouchers Exh. M-4 to M-18 while accepting the amount. He has also admitted that he did not submit any application for payment of Rs. 6000 per month as salary and he also did not make complaint to any higher authority regarding less payment and he does not have any list of the persons engaged subsequently to him by the management.

The witness for the management, Shri Prakash Narayan Kulkarni in his affidavit has stated that as per the need of the work, job work of typing was entrusted to the Party No. 2 and the Party No. 2 was executing the typing job work and accordingly, he was being paid on vouchers and the Party No. 2 was signing the vouchers from time to time and the Executive Engineer, Postal Civil Division, Nagpur had made necessary sanction monthwise for making payment to the Party No. 2 and the Party No. 2 did not undergo any recruitment process as per the recruitment rules, prior to his appointment and at no point of time, the Party No. 2 had worked for more than 240 days in a calendar

year and as the engagement of Party No. 2 was that of job work basis, there was no relationship of master and servant between the parties. The evidence of the witness has been shaken in the cross-examination.

6. At the time of argument, it was submitted by the learned advocate for the workman that the workman was appointed as a Typist against a permanent vacancy reserved for OBC category and he joined duty in October, 1993 with a consolidated salary of Rs. 700 per month and he was preparing bills, letters and performing other official jobs from 9.00 am to 6.00 pm and had completed more than 240 days of work in a calendar year and as such, he had acquired the status of a permanent employee and his salary was increased from Rs. 700 per month to Rs. 1200 per month after October, 1995 and as his services were terminated orally w.e.f. 30-11-2000, without compliance of the mandatory provisions of the Section 25-F and 25-G of the Act, the workman is entitled for reinstatement in service with continuity and back wages and in the cross-examination of the workman, nothing has been brought out to disbelieve his testimony and the management has failed to prove that the workman was doing job typing work and the evidence adduced by the management in that respect is quite discrepant and as such, the claim of the management is to be rejected. In support of such contentions, reliance has been placed by the learned advocate for the workman on the decisions reported in AIR 1986 SC 132 (H.D. Singh Vs. Reserve Bank of India) and 2001 (2) MhLJ 72 (Owesh Alam Mohd. Yakub Vs. Principal of Maharashtra College of Art and Science Mumbai)

7. In reply, it was submitted by the learned advocate for the management that the workman was engaged for typing work on contract basis and due to the increase in the rate of typing, the workman was paid the increased amount of Rs. 1200 as per rate job and it is clear from the documents filed by the management that the workman was not appointed as typist and he was being paid by regular sanction from time to time for the typing work rendered by him and the workman has admitted to have signed Exh. M-4 to M-18, under which he had received the amount for doing job typing work and from the documentary evidence and oral evidence, it is clear that the workman has not been able to prove that he completed 240 days of work in a calendar year and as the workman was doing the typing work on contract, there is no question of compliance of the provisions of Section 25-F and 25-G of the Act.

8. Perused the pleadings of the parties and evidence, both oral and documentary on record. According to the claim of the workman, he was appointed by the parties No.1-A in October, 1993 and worked continuously till November, 2000 and he had completed 240 days of work on each calendar year and without compliance of the mandatory provisions of Section 25-F and 25-G of the Act, his services were terminated orally and as such his termination is illegal. The management

has denied the workman to be appointed as typist and has pleaded that he was doing job typing work and he had not worked for 240 days in any calendar year. As the claim of the workman has been denied by the management, the onus lies upon the workman to show that he had in fact worked for 240 days in the year proceeding the date of his termination. In this case, except the affidavit filed by the workman, no other evidence has been adduced by him, in support of his claim. It is well settled by the Hon'ble Apex Court in a number of decisions that where the claim of the workman that he had worked for 240 days in the year preceding his termination, the onus lies upon the claimant to show that he had in fact, worked for 240 days in a year and in absence of proof of receipt of salary or wages or record of appointment, filing of an affidavit by workman is not sufficient evidence to prove that he had worked for 240 days in a year preceding his termination (In this regard the decision of the Hon'ble Apex Court as reported in AIR 2002 SC 1147 Range Forest Officer Vs. ST Hadimani) and AIR 2005 SC 2179 (Manager, Reserve Bank of India Vs. S. Mani may kindly be referred to).

So, keeping in view, the settled principles in this regard, now, the present case at hand is to be continued. As already mentioned above, except the affidavit the workman has not adduced any other evidence to prove that he worked for 240 days, preceding 12 months of the date of his termination and as such, it is found that the workman has failed to prove the same.

9. The workman in his evidence has admitted that he did not receive any interview call and no appointment letter was issued to him and he did not apply for the post and he also did not know the pay scale of the post of Typist. He has also admitted that he had signed the vouchers Exh. M-4 to M-18, while accepting the amount. Such admission of the workman coupled with the documents Exh. M-4 to M-18 and M-21 and oral evidence of the witness examined on behalf of the management, it is clear that the workman was doing job typing work and he was never appointed as a Typist against a clear vacancy of typist reserved for OBC category. Hence, there was no question of application of the provisions of Section 25-F and 25-G of the Act. As the facts and circumstances of the case in hand as mentioned above are quite different from the facts and circumstances in the cases referred in the two decisions, on which reliance has been placed by the learned advocate for workman, with respect, I am of the view that the said decisions have no application to the present case. In view of the discussions made above and the evidence on record, it is held that the workman is not entitled to any relief. Hence it is ordered :

ORDER

The action of the management of the Superintending Engineer, Postal Civil Circle, Sion Post Office Building, Mumbai and (ii) The Executive Engineer, Postal, Civil Division, Nagpur in terminating the services of Sh. Sitaram Arjunrao Kashirsagar R/o 134, Balaji Nagar, Manewada

Road, Nagpur w.e.f. 30-11-2000 is legal, proper and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 612/2K5) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-5-2011 को प्राप्त हुआ था।

[सं. एल-12012/124/99-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S.O. 1705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 612/2K5) of the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Patiala and their workmen, received by the Central Government on 27-5-2011.

[No. L-12012/124/99-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II CHANDIGARH

Present : Sri A. K. Rastogi, Presiding Officer

Case I. D. No. 612/2K5

Registered on 24-8-2005

Shri Rajinder Singh, S/o Shri Sant Singh, 17 Jhujahar Nagar, Street No. 1, Patiala-147001

....Applicant

Versus

The Assistant General Manager-I (P) State Bank of Patiala, Head Office, The Mall, Patiala (Punjab) 147001.

...Respondent

APPEARANCES :

For the Workman : Sh. Tek Chand Sharma, Advocate

For the Management : Shri N. K. Zakhmi, Advocate.

AWARD

Passed on 12 May, 2011

Central Government vide Notification No. L-12012/124/99-IR(B-I) dated 28-7-1999, by exercising its powers

under Section 10 Sub-section(1) Clause (d) and Sub-section 2(A) of the Industrial Disputes Act, 1947 (hereinafter referred to as Act) has referred the following industrial dispute for adjudication to this Tribunal :-

“Whether the action of the management of State Bank of Patiala in awarding the punishment of dismissal from service to Shri Rajinder Singh S/o Shri Sant Singh is legal and just? If not what relief the concerned workman is entitled to and which date?”

As per claim statement the workman at the relevant time was posted as Head-cashier “E” at Branch Office, Industrial Area, Patiala. He was charge-sheeted on 15-2-1996 for certain misconducts allegedly committed in 1989, 1992, 1993 and 1994. The workman submitted reply dated 21-3-1996 to the charge-sheet denying all the allegations and explaining the facts, but the bank did not consider his reply and proceeded to hold an enquiry. The workman has assailed the enquiry proceedings on the grounds that the Enquiry Officer was not appointed according to the provisions of Sashtri and Desai Award and Bi-partite settlement, no copy of appointment order was supplied to the workman, no notice was displayed on the bank’s notice board as required under para 18.20 sub para 12 of the Desai Award read with Clause 19.14 of Bipartite Settlement, enquiry was not held in accordance with the prescribed procedure under law and proper opportunity was not given to the workman for defence, charge-sheet was not served according to the provisions of the award and settlement and list of documents and witnesses was not attached with the charge-sheet, the article of charges and statement of imputation of misconduct was also not attached with the charge sheet, findings of the Enquiry Officer are not based on admissible evidence and are perverse and Enquiry Officer even recorded proceedings ex- parte. It was further alleged that the Enquiry Officer wrongly considered his reply to allegation no. 5 as his admission and the disciplinary authority without applying its mind imposed the penalty ignoring submissions made by the workman and his reply to the charge sheet. The workman has alleged that the order of punishment is wrong, illegal, harsh and disproportionate to the alleged misconduct. It has further been alleged that disciplinary authority in a letter to the Enquiry Officer had stated that Branch Manager, Rajinder Singh and the workman were the main officials responsible for the irregularities. It tantamount to prejudging the issues and interference in the independent jurisdiction of the Enquiry Officer. It has however been mentioned in this regard in the claim itself that the Enquiry Officer or disciplinary authority did not refer the said letter in his findings and the said letter has not been referred to in the disciplinary action also. According to the workman he did not commit any alleged action and the allegations in the charge sheet do not constitute any misconduct and were

not connected with the duties of the workman. The action taken is wrong, illegal and against the rules. The workman has prayed for his reinstatement with full back wages and continuity of service.

The claim was contested by the respondents and it was alleged that the workman with the connivance with Branch Manager had embezzled/misappropriated a sum of Rs. 1,51,000 and he raised a loan for the purchase of a scooter without hypothecating it with the bank. There were other charges also against the workman. An explanation of the workman had been called for his acts of conduct and after finding his reply unsatisfactory an enquiry was conducted. The Enquiry Officer allowed the workman to be represented by a co-worker and copies of all the enquiry proceedings and documents were given to the workman. The workman during the course of enquiry never made any complaint against the Enquiry Officer about not conducting enquiry properly and about not giving any opportunity to defend. The workman along with his representative attended almost all the enquiry proceedings except on 17-1-1997 and 1-2-1997. Enquiry Officer, after conducting a fair and proper enquiry and after giving the full opportunity to the workman, submitted his report dated 22-4-1997 holding the charge no.2 and 3 fully proved and charge no. 3 partly proved. Charge No.5 was held to be true on the basis of the admission of the workman. The disciplinary authority after considering the report and other documents and also the gravity of the charges, concurred with the findings of the Enquiry Officer and issued a Show Cause Notice to the workman as to why the penalty of dismissal be not imposed? The workman did not submit any reply to the Show Cause notice hence the Disciplinary Authority finally passed the punishment order of dismissal of the workman from bank’s service. The punishment awarded is quite commensurate with the gravity of the misconduct and no principle of natural justice was violated. The claim of the workman deserves to be dismissed.

While the case was fixed for the hearing on fairness of enquiry, the workman died. He did not appear in the case since 12-02-2007. In fact, in person he was present lastly on 19-07-2006. Thereafter his counsel appeared on 16-04-2007 and reported the death of the workman. His LRs did not come forward for being substituted and they did not turn up despite a notice sent to the workman through registered post on 20-07-2010. Parties did not lead any evidence in the case except the record of enquiry proceedings which was filed by the management.

I have heard the learned counsel for the management and perused the enquiry report.

The workman had been charge-sheeted for the following charges:-

1. He made certain payments amounting to Rs. 1,51,000.- without the support of any instrument duly passed by any of the supervising officials and

he in connivance with the Branch Manager mis-appropriated the said amount.

2. He did not cancel the signature of the drawer on a cheque drawn on the current Account of M/s. Didar Singh and Sons and paid the cheque amount of Rs. 20,00,000 to the payee without noticing that the cheque had not been signed by the drawer.

3. He accepted and paid certain instruments which were not signed by any of the passing officials and numbered with their cash scroll.

4. He arranged a loan of Rs. 25,000 for his wife without the prior sanction of controlling authority from another branch Dharampura Kala, Patiala.

5. He raised a loan of Rs. 10,000 for purchase of a scooter but did not hypothecated it to the bank in the books of the transport authorities.

The learned counsel for the management submitted that the enquiry was conducted according to the principles of natural justice and there is nothing on record to show that by any act of the management the workman was prejudiced in his defence or he was denied any opportunity to defend. The workman admittedly had submitted his reply to the charge sheet. Regarding charge No.5 he has stated in his reply that "it is true that the scooter was purchased by me but could not be hypothecated in favour of the bank. I was not aware of such cumbersome procedure. None asked me to get the hypothecation in the record. I am ready to deposit back the outstanding balance/or to get it hypothecated as the bank may deem proper..." I agree with the learned counsel for the management that in his reply he has admitted the misconduct mentioned in charge no. 5.

It was argued by the management counsel that the disciplinary authority is not obliged under rules to provide a copy of order appointing the Enquiry Officer.

The learned counsel for the management took me through the enquiry proceedings to show that workman was being represented by one Mr. M. M. Behal. The proceedings of 10-06-1996 shows that before recording the evidence the list of documents and witnesses and documents in duplicate had been supplied to the workman so that he may prepare his defence.

It appears from the enquiry report that on 16-01-1997 the workman's representative was present during the enquiry proceedings and on that date the proceedings had been adjourned to 17-01-1997 in the knowledge of the workman's representative. But on 17-01-1997 the workman and his representative absented hence the evidence of the management witness was recorded in the absence of the workman. On the next date i.e. 01-02-1997 also the workman and his representative remained absent. The proceedings of that date has a mention that a registered letter dated 17-01-1997 had been sent to E.P.A. about the date 1-02-1997 fixed in the enquiry

and the letter was not received back undelivered. The E.P.A. neither came to attend the enquiry proceedings fixed for that date nor sent any information. The Enquiry Officer was justified in his conclusion that the workman was knowing and intentionally avoiding the enquiry and was not interested to defend himself. He therefore, conducted the enquiry proceedings and then submitted his findings.

From the perusal of the enquiry record it is clear that if the Enquiry Officer proceeded ex-parte against the workman on 17-01-1997 and 01-02-1997. He committed no irregularity and the workman had to blame himself for the action of the Enquiry Officer in proceeding ex-parte against him.

There is no evidence of any prejudice caused to the workman in his defence on account of any action on the part of management or Enquiry Officer.

Considering the nature of the charges against the workman, the punishment of dismissal awarded to the workman cannot be said to be disproportionate and harsh. It may be mentioned here that a cashier is required to exercise higher standard of honesty and integrity. He deals with the money of depositors and customers. He is required to take all possible steps to protect the interest of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming to a bank official.

I am, therefore, of the view and I hold accordingly that the action of the management of State Bank of Patiala in awarding the punishment of dismissal from services to workman (since deceased) was legal and just. The reference is answered accordingly against the deceased workman. Let two copies of award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1706.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संबंध संख्या 34/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-12011/04/2009-आईआर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S.O. 1706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2009) of the Central Government Industrial Tribunal-cum-Labour Court-II, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of State Bank of India and their workmen, received by the Central Government on 30-5-2011.

[No. L-12011/04/2009-IR (B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
"SHRAM SADAN",
J.I MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE-560 022

Dated : 3rd May 2011

PRESENT : Shri S. N. Navalgund, Presiding Officer

C. R. No. 34/2009

PARTY

The General Secretary,
State Banks Staff Union,
P.O. No.5102, SBI Local Head Office,
No.35, St.Marks Road,
Bangalore - 560001

PARTY

The Dy. General Manager & CDO,
State Bank of India, Local Head Office,
65, St.Marks Road,
Bangalore-560001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section(1) and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947(14 of 1947) has referred this dispute vide order No.L-12011/04/2009-IR(B-I) dated 3rd July, 2009 for adjudication on the following Schedule:

SCHEDULE

"Whether the management of State Bank of India, Bangalore, LHO, St.Marks Road, Bangalore in not making overtime wages to Shri B.G. Bhagawati, Special Assistant, SBI, Bagalkot, (KN) for 138 hours 15 minutes for the period of his work from December 2007, January 2008 and February 2008 is justified? If not, what relief he is entitled to?

2. After the receipt of the reference the first party as well as the second party entered their appearance through advocates and as the first party in spite of providing several opportunities to file claim statement did not file claim statement taking that he is not interested to file claim statement when the matter came to be posted for counter statement to substantiate the refusal to pay overtime allowance wages, on 02-05-2011 the learned advocate appearing for the second party filed a memo to the effect that the first party agreed to receive overtime payment for 73 hours in full settlement of his claim and accordingly the second party agreed for the same and they settled the claim of the first party and made payment of 73 hours of

overtime work, also produced a copy of the memo of settlement entered into by the first party and the second party and the counsel for the first party submitted that the entire claim being received by the first party the case may be disposed off.

3. In view of the private settlement between the parties and the second party paying 73 hours overtime work allowance the reference is liable for rejection for settlement out side the court. In the result I pass the following award:

AWARD

The reference is rejected in view of the settlement between the parties and the first party receiving payment for 73 hours of overtime work against his claim for 138 hours and 15 minutes.

(Dictated to PA transcribed by her corrected and signed by me on 3-5-2011)

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1707.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू सी. एल. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 102/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/171/2007-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S.O. 1707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 102/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of WCL, and their workmen, received by the Central Government on 30-5-2011.

[No. L-22012/171/2007-IR(CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/102/2007

PRESIDING OFFICER : SHRI MOHD. SHAKIR HASAN

The Organisation Secretary (Legal),
Rashtriya Koyal Khadan Mazdoor Sangh-(INTUC)
Regional Office, Chandametta,
P.O. Chandametta,
Chhindwara

...Workman

Versus

The Chief General Manager,
WCL, Pench Area,
PO Parasia,
Chhindwara

... Management

AWARD

(Passed on this 9th day of May, 2011)

1. The Government of India, Ministry of Labour vide its Notification No.L-22012/171/2007-IR(CM-II) dated 5-10-2007 has referred the following dispute for adjudication by this tribunal :-

“ Whether the action of the management of WCL in not giving promotion to Shri Rajendra Singh is legal and justified ? If not, to what relief is the workman entitled? ”

2. The case of the Union/Workman in short is that the workman Shri Rajender Singh Thakur was working as Sr.Overman Grade-A in Ganpati Mine of WCL, Pench Area. It is stated that in the year 2005, DPC was held for promotion in Sr. Overman Grade A-I but he was not promoted by calculating wrongly of his marks ignoring as in CR given by Manager, Ganpati Mine. It is submitted that the reference be answered in his favour.

3. The management appeared and filed Written Statement. The case of the management, inter alia, is that admittedly Shri Rajender Singh was working as Sr. Overman in T & S Grade A. The name of the workman is reflected in Sl. No. 60. The DPC has rightly assessed the CR of the workman and had given the mark accordingly as per norms decided to be followed by the DPC. The DPC had not committed any mistake. It is submitted that the action of the management in not promoting the workman in the post of Sr.Overman T & S Grade A-I is just and proper.

4. During the course of the proceeding of the reference, the parties have settled their disputes. The management has filed the copy of the settlement dated 2-4-2011, order dated 22-11-2010 of the management whereby he was promoted by the management and the joining report dated 23-12-2010. It is submitted that the award be passed accordingly. On perusal of the copy of the settlement, it is evident that the settlement is signed by the management representative on the one hand and the workman Shri Rajender Singh and Union General Secretary, INTUC on the other hand. The settlement appears to be in order. The following are the terms of the settlement -

समझौते की शर्तें

1. प्रबंधन द्वारा मैन पावर बजट 2010-11 में रिक्तता के आधार पर पदोन्नति समिति के माध्यम से पदोन्नति की सहमति दी गई ।

2. कामगार/यूनियन द्वारा सहमति दी गई कि उक्त पदोन्नति बाबू भविष्य में किसी भी न्यायालय में पुनः प्रकरण नहीं लगाया जायेगा ।
3. संघ सी. जी. आई. टी. जबलपुर से उनके पदोन्नति का प्रकरण क्र.आर/102/07 वापस ले लेगा ।
4. कामगार/यूनियन द्वारा सहमति दी गई कि यह पूर्ण एवं अंतिम समझौता है ।
5. कामगार/यूनियन द्वारा सहमति दी गई कि यह समझौता अन्य प्रकरण में उदाहरण स्वरूप प्रस्तुत नहीं किया जायेगा ।

Considering the above discussion and in view of the settlement between the parties, the reference is accordingly answered.

5. In the result, the award is passed in terms of settlement as has been stated above without any order to costs.

6. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1708.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू सी. एल. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर, के पंचाट (संदर्भ संख्या 34/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/173/2000-आईआर (सीएम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S.O. 1708.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 30-5-2011.

[No. L-22012/173/2000-IR(CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/34/2003

PRESIDING OFFICER: SHRI MOHD. SHAKIR HASAN

The General Secretary,
Khadan Mazdoor Sangh (AITUC),
Pathakhera Area,
Distt. Betul
Betul (MP)

...Workman

Versus

The General Manager,
Western Coalfields Ltd.,
PO Pathakhera, Distt. Betul, Betul (MP) ...Management

AWARD

(Passed on this 9th day of May, 2011)

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/173/2000-IR(CM-II) dated 5-2-2003 has referred the following dispute for adjudication by this tribunal:-

“ Whether the action of the management of Western Coalfields Limited in not regularizing the services of Shri Puranlal Pawar in the scale of Cat. V i.e. Supervisory Lineman Technical w.e.f. 1-1-1998 is justified ? If not, to what relief the workman is entitled to ? ”

2. The case of the Union/Workman in short is that the workman Shri Puranlal Pawar was working as Lineman Category IV w.e.f. 1-1-1990. Subsequently he was authorized to work as Lineman Category V vide Order dated 12-7-1995. There is no promotional channel from Category-IV to Category V. The next promotional post of Category-IV was Senior Lineman-Technical and Supervisor Grade-“D”. It is stated that the management has upgraded in Category-V in 1998 instead of regularizing and promoting him in Grade-D in 1995 itself. It is submitted that the management be directed to grant promotion to the workman in the cadre of Lineman Technical and Supervisor Grade- D w.e.f. 12-7-1995.

3. The management appeared and contested the reference by filing Written Statement. The case of the management, inter alia is that the workman had earlier raised dispute vide Case No. 13/99/MPIR before the Labour Court, Betul and the same was dismissed on 23-2-2000. Thereafter he has raised the present dispute. He had already been upgraded to the Category No. V w.e.f. 1-1-1998 in the light of I.I.No.31 NCWA-V. Hence the Order of reference become infructuous. He cannot be regularized as Supervisory Lineman-Technician. The authorization letter dated

12-7-1995 to work as Category-V was inadvertently issued as the, same is contrary to the Cadre Scheme. It is submitted that the terms of reference be accordingly answered.

4. On the basis of the pleadings, the issues are framed as under-

I. Whether the action of the management of WCL in not regularizing the service of the workman in the scale of Cat V i.e. Supervisory Lineman Technical w.e.f. 1-1-1998 is justified?

II. To what relief the workman is entitled ?

5. Issue No. I

The workman filed his evidence by way of affidavit but did not turn up for cross-examination. As such his evidence is of no use and is not to be looked in evidence. There is no other evidence adduced on behalf of the Union/ Workman.

6. The management has examined one witness and has also filed documents to prove the case. It is not out of place to say that it is a settled principle that Tribunal cannot go beyond the reference. The claim of the workman/Union in statement of claim for granting promotion in the cadre of Lineman Technical and Supervisory Grade “D” w.e.f. 12-7-95 is beyond the scope of the reference. Thus this claim is not tenable in view of the settled principle.

7. On the other hand, the management has admitted in the evidence as well as in the pleading that the workman was granted Service Linked Upgradation in Category V w.e.f. 1-1-1998. The said office order dated 18-9-98 is filed which is Exhibit M/s. The Sr.No.34 of the said order clearly shows that the workman was upgraded (SLU) in Category- V w.e.f. 1-1-98. This shows that the workman is getting the scale of Category V in view of I.I.No.31 of NCWA w.e.f. 1-1-98 as has been referred in the reference order. It further shows that Lineman Category V is not a promotional post in the Cadre Scheme. The workman had been granted service linked upgradation on completion of 8 years service as per norms of I.I.No.31 of the NCWA. It appears from the evidence discussed above that the management is justified in not regularizing him in Lineman Technical and Supervisory Grade-D rather he was already upgraded in the scale of Category V-w.e.f. 1-1-98. This issue is decided in favour of the management.

8. Issue No. II

On the basis of discussion made above, it is clear that the workman has already been given upgradation in Lineman Category-V w.e.f. 1-1-1998 and was not entitled to be regularized on the post of Lineman-Cum-Technical and supervisory Grade “D”. He appears to be not entitled to any relief. The reference is accordingly answered.

9. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय नागपुर, के पंचाट (संदर्भ संख्या 143/2000) को एकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/330/1998-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S. O. 1709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 143/2000) of the Central Government Industrial Tribunal/Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. FCI and their workmen, which was received by the Central Government on 30-5-2011.

[No. L-22012/330/1998-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/143/2000

Date: 11.05.2011.

Party No.1 The District Manager,

Food Corporation of India, Ajni,
Nagpur.

Versus

Party No.2 The Secretary,

F.C.I. Employees Union, Western
Zone, Unit C/o F.C.I., Ajni, Nagpur.

AWARD

(Dated : 11th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of District Manager, F.C.I. and their workman, Shri K. N. Mendhekar for adjudication to the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai, as per letter No.L-22012/330/98-IR (CM-II) dated 25.05.1999, with the following schedule:-

"Whether the action of the management of FCI through Distt. Manager, Ajni, Nagpur in forcibly retiring Shri K. N. Mendhekar from Service w.e.f.

17-8-1996 is legal and justified ? If not, to what relief is the workman entitled?"

"Whether the action of the management of FCI, through Distt. Manager, Ajni, Nagpur in reinstating Shri K. N. Mendhekar and posting as Gr. I 'D' as reversion from the post of Asstt. Manager (Depot), Akola is justified ? If not, to what relief is the workman entitled and from what date?"

Subsequently, the reference was transferred to this Tribunal for disposal in accordance with law.

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the union, "Food Corporation of India Employees Union" ("the union" in short) on behalf of Shri K.N. Mendhekar ("the workman" in short) filed the statement of claim and the management of the District Manager, Food Corporation of India ("the Party No.1" in short) filed its written statement.

The claim of the workman as projected in the statement of claim is that he joined the service of Food Corporation of India in 1961 and after 29 years of satisfactory service, he was promoted to the post of Assistant Manager (Depot) and posted to FSD, Akola w.e.f. 17-11-1989 and while he was working as Assistant Manager, he was placed under suspension w.e.f. 3-8-1990, on contemplation of Disciplinary proceedings against him, by the Zonal Manager (West), FCI, Mumbai vide order dated 25-7-1990 and also granted subsistence allowance, as per order dated 13-9-1990 and the Zonal Manager also revoked the order of suspension vide his order dated 26-9-1991 and thus, by all means, the Zonal Manager (West), Mumbai had initiated the Disciplinary proceeding against him, in accordance with the powers conferred on him under Annexure-II of the FCI (Staff) Regulation, 1971 and while he was under suspension, he was reverted from the post of Assistant Manager (Depot) to the post of Assistant Grade- I(D) as per order dated 12-9-1990 of the Zonal Manager West Mumbai, on the ground that his probation was found not satisfactory and he belongs to Scheduled Tribe community and was never given any intimation or notice regarding his performance not to be satisfactory and he was also not given any opportunity to show improvement, if any required and the action of the management in reverting him was arbitrary. It is also pleaded by the workman that though the Zonal Manager (West) acted as the Competent Authority as well as Disciplinary Authority while placing him under suspension, granting subsistence allowance and revoking the suspension order, the Sr. Regional Manager (Mah) FCI, Mumbai, who was not competent to initiate the disciplinary proceeding against an Assistant Manager, initiated the departmental proceeding by issuing the charge sheet against him and during the course of the enquiry, he appointed Shri R. N. Goyal, a physically handicapped person and Asstt. Grade- I (D) from Regional Office, Bhopal

as his Defence Assistant and his Defence Assistant was not in a position to move out of Bhopal, so, he made a genuine request to the Inquiry Officer to fix the enquiry at Bhopal but his request was turned down arbitrarily and he was asked by the Inquiry Officer to appoint another Defence Assistant within 24 hours or to defend the case himself or otherwise to proceed with the enquiry ex-parte, so he was compelled to attend the enquiry without any assistant and fair and reasonable opportunity was denied to him in the enquiry and documents, such as the annexure to the squad report were not supplied to him, for which, he was not able to cross-examine the witnesses and principles of natural justice were not followed in the enquiry.

The further case of the workman is that the Sr. Regional Manager, acted without authority, when he decided the case against him (workman) dis-agreeing with the findings of the Inquiry Officer and imposed penalties of compulsory retirement from service, recovery of 50% of Rs. 3,53,728.00 + Rs. 15,748.75 from terminal benefits and to treat the period of suspension from 3-8-1990 to 30-9-1991 as "not spent on duty" and the action of the Sr. Regional Manager in compulsorily retiring him without giving him a reasonable opportunity to defend his case is totally unjustified and illegal and he was compelled to prefer the appeal before the Zonal Manager (West), Mumbai, who should have been the Disciplinary Authority in the case and while deciding the appeal, the Zonal Manager, who was very much prejudiced against him caused more damage against him by passing the orders that —

- (i) "The workman will be reinstated in service as Assistant Grade-I (Depot) in the minimum of scale for Assistant Grade-I (Depot) applicable to him.
- (ii) The recovery is restricted to one year's basic pay as per standing instructions in vogue at that point of time, which is to be recovered from his pay till he remains in FCI service and balance, if any will be recovered from his terminal dues.
- (iii) The intervening period from the date of his compulsory retirement, the service will be treated as leave of any kind due to him including E.O.L.
- (iv) His suspension period be treated as period not spent on duty and his pay and allowances for the said period be restricted to the subsistence allowance already paid to him" and by passing such orders, the Zonal Manager overstepped his authority by holding him responsible with those charges which was not included in the memorandum of charge and the Appellate Authority actually enhanced the penalty imposed by the Disciplinary Authority, which is bad in law and there had been a financial loss to him. The workman has prayed to set aside the order

of his reversion and the orders passed by the Disciplinary Authority and Appellate Authority and to give him all the consequential financial benefits of that of Assistant Manager (Depot) with effect from 12-9-1990 to the date of retirement.

3. The Party No.1 in its written statement has pleaded inter-alia that the workman was charge sheeted under Regulation 58 of the Regulations alongwith two other employees and on finalization of the enquiry proceedings, the penalties of compulsory retirement from service with immediate effect, recovery of 50% of Rs. 3,53,728 and Rs.15,748.75, being the loss sustained by it (F.C.I.) on account of shortage of foodgrains stocks weighing 151,165,875 M. Ts and cost of 1075 gunnies bags respectively from the terminal dues and to treat the period of suspension as "not spent on duty" were imposed against the workman and the penalty of compulsory retirement and other penalties were also imposed against the other two employees and the workman, while working as Assistant Manager (D), incharge of FSD, Akola, during the period from 17-10-1989 to 10-8-1990 failed to maintain absolute integrity and pilferage 1341 bags of loose gainsweighing 151-165-875 M.Ts costing Rs. 3,53,728 of indigenous wheat stocks in connivance with Shri T. R. Gade and Shri S. G. Jadhav both A.G.I. (D) and deliberately suppressed shortage caused thereby, till the R.O. Squad detected the differences between the book balances and ground balances during inspection and physical verification of stocks of FSD, Akola from 14-6-1990 to 18-6-1990 and the workman also failed to exercise proper control and supervision on the day to day operation of the depot with the result the depot staff utilized 800 additional serviceable empty gunnies or filling loose indigenous wheat instead of filling the same in slack bags and thereby caused loss of Rs. 11,720 to the Corporation and as such, he was charge sheeted under Regulation 58 of the Regulations *vide* memorandum No. V & S/4(7)/91/ RO dated 8-7-1991 and the workman denied the charges in his show cause, so Inquiry Officer was appointed to enquire into the charges framed against the workman and the Inquiry Officer in his report dated 5-7-1993 held the charges under Article (I) not to have been proved and Articles II and III to have been proved except pilferage as mentioned in Article-II and the workman was given the opportunity by providing him with a copy of the enquiry report to make representation on the same and the workman submitted his reply on 10-8-1993 to exonerate him of the charges leveled against him on the ground that the charges have not to be proved against him and the S.R.M. (Mah) being the Disciplinary Authority on careful consideration of the enquiry report, evidence produced in the enquiry and the representation of the workman dated 10-8-1993 and all other facts of the case disagreed with the findings of the Inquiry Officer and held the charge under Article- I

to be proved and agreed with the findings of the Inquiry Officer in respect of Articles II and III of the charges and imposed the penalty as already mentioned earlier. The further case of the Party No.1 is that being aggrieved by the order of the Disciplinary Authority, the workman preferred an appeal to the Appellate Authority i.e. Zonal Manager (West), who after taking into consideration all the facts and circumstances of the case and applying his mind took a lenient view and modified the penalty awarded by the Disciplinary Authority by the speaking order dated 24-4-1997 and imposed the penalty already mentioned above and the workman also preferred a review petition on 2-8-1997 to the Managing Director, F.C.I., H.Q., New Delhi and after due consideration, the review petition was rejected by the Managing Director by his speaking order dated 12-5-1998.

It is also averred by the Party No.1 that the workman was promoted to the post of Assistant Manager (Depot) from the post of A.G.I(D) by order dated 28-8-1989 and was placed on probation for a period of one year w.e.f. 17-10-1989, but before completion of the probation period, as his overall performance was found not upto mark and as he was also under suspension w.e.f. 3-8-1990, his probation period was terminated and the workman was reverted as A.G.I (D) on account of his non-successful completion of probation period prior to initiation of Disciplinary proceeding by order No. 477/1990 No. Extt., 6(1)/89/WZ dated 12-9-1990 of the Z.M., FCI, Mumbai and as such, the second para of the reference has no relevance with the first para of the reference made by the Central Govt. and for the said reason, the workman after modification of the penalty by the Appellate Authority from compulsory retirement to that of reinstatement joined in the post of A.G.I(D), which was already held by him at the time of imposition of the penalty of compulsory retirement and not as reversion from the post of Asstt. Manager (D) and though the workman was holding the post of Asstt. Manager, when he was placed under suspension on 25-7-1990, he was reverted to A.G.I(D) on 12-9-1990, without confirmation in the post of Asstt. Manager (D) and at the time of issue of charge sheet on 8-7-1991, the workman was holding the post of A.G.I(D) and as such, the S.R.M., FCI, Mumbai was the appropriate Disciplinary Authority to issue charge sheet and it is the prerogative of the Inquiry Officer to decide the place, date and time of enquiry and therefore, the charged employee cannot dictate terms to the Inquiry Officer in the said matter and as it was found by the Inquiry Officer that the workman was playing dilatory tactics, he was not allowed to delay the enquiry further and ample opportunities were afforded to the workman to utilize the service of the Defence Assistance, but he failed to avail the same and the Annexures to the squad report were not listed documents to the charge sheet and hence, they were not supplied to the workman and there was never any violation

of the principles of natural justice during the departmental enquiry and the imposition of the penalty of compulsory retirement was for misconduct of causing huge shortage of foodgrains and other lapses, which was found by the Disciplinary Authority to have been proved and the recovery was to make good the loss of shortage of foodgrains and gunnies and as major penalty was imposed, his period of suspension was ordered to be treated as "not on duty" as per provisions of Sub-Regulation 8(b) of the Regulations and the Disciplinary Authority has powers to disagree with the findings of the Inquiry Officer as per Regulation 59 of the Regulations and as such, the action of the Disciplinary Authority was as per the delegation of the powers and the Regulations and the conclusions drawn by the Disciplinary Authority are based on the oral and documentary evidence adduced in the enquiry and Article-III of the charge sheet is very clear and the same was levelled against the workman on the allegation of his failure to exercise proper control and supervision of the day-to-day operation of the depot and as such, the findings of the Zonal Manager cannot be claimed to be of his own without any charge and the order of suspension and revocation of the workman was passed by the Zonal Manager as per Regulation 66(5)(c) of the Regulations and there was never any enhancement of the penalty by the Appellate Authority and by taking a lenient view, modified the order of compulsory retirement passed by the Disciplinary Authority to one of reinstatement and because of such modification of the penalty, the workman enjoyed one more years of service benefits and by way of gross salary etc. earned Rs.1,73,327.20 w.e.f. 22-8-1996 to 31-8-1997 till his date of superannuation and the period of 250 days from 22-8-1996 to 28-4-1997 i.e. the date of his compulsory retirement from service to the date of his reinstatement in the service, the management regularized 124 days as E.L. and 128 days as HAPL as per the Rules governing the subject, for which the workman got maximum amount as otherwise he would have got less amount and as per the order of the Appellate Authority dated 24-4-1997, the workman was not supposed to apply for leave and the Appellate Authority restricted the recovery from the workman to one year's basic pay as per standing instructions i.e. Rs. 38,400 (Rs. 3200 x 12 = Rs.38,400) instead of Rs. 1,84,738.40, hence the statement made by the workman is not correct and the workman had not been denied the principles of natural justice and as such, the workman is not entitled for any relief.

4. The issues formulated on the basis of the pleadings of the parties have already been answered by order dated 27-10-2008, except the question of quantum of punishment. It is already held by order dated 27-10-2008 that the enquiry is proper, legal and giving full opportunity to the workman in accordance with the principles of natural justice, the reversion of the workman from the post of Assistant Manager (Depot) to the Asstt. Grade-I (D) is not illegal

and the findings are not perversed. So, the only question remains for consideration is as to whether the punishment imposed against the workman is shockingly disproportionate or not.

In this respect, the submissions made by the workman was that the Inquiry Officer held in the enquiry report dated 5-7-93 that the charges were not proved but the Disciplinary Authority in total disagreement with the findings officer, imposed the penalty of compulsory retirement from service with immediate effect, recovery of 50% of Rs. 3,53,728 + Rs. 15,748.75 and no opportunity was given by the Disciplinary Authority to him before passing the penalty order against him without complying with the principles of natural justice and as such, the punishment imposed against him is liable to be set aside. In support of such contention, reliance is placed on the judgement of the Hon'ble High Court of judicature of Bombay in writ petition No. 1028/1998 dated 18-8-2009 (Shri P.A. Gopi Vs. Food Corporation of India).

5. On the other hand, it was argued out by the Party No.1 that while considering the appeal, the Appellate Authority modified the penalty imposed against the workman by taking a lenient view and the punishment imposed against the workman is not shockingly disproportionate to the proven misconduct against him.

6. In the judgement as mentioned above, the Hon'ble Court have held that, "The reliance was placed before us on the provisions of Regulation No.59 of the Service Regulation framed by the Corporation. No doubt Regulation 59 of the Food Corporation of India (Staff) Regulations, 1971, empowers the Disciplinary Authority to disagree with the findings of the enquiry officer and there can be no debate on that aspect. However, Disciplinary Authority's power to disagree with the findings recorded by enquiry officer, has to be exercised in consonance with the principles of natural justice. Settled law is that it is one of the principle of natural justice that before the Disciplinary Authority records its finding contrary to the findings recorded by the enquiry officer, it must give notice to the delinquent of its proposal to disagree with the findings of the enquiry officer. A finding of disagreement with the findings of the enquiry officer cannot be recorded without complying with the principles of natural justice. In our opinion, therefore, punishment imposed by Disciplinary Authority is vitiated for non compliance of principles of natural justice. In the result, the petition succeeds and is allowed. The orders imposing punishment on the petitioner are set aside. If any amounts have been recovered from the petitioner as penalty, they shall be refunded to the petitioner in accordance with law. Rule made absolute. "No order as to costs".

7. In the case referred in the decision, all the three articles of charges were held not be proved by the Inquiry Officer, where as the Disciplinary Authority held all the

three articles of charge to have been proved. However, in the case at hand, out of the three articles of charges levelled against the workman, the Inquiry Officer found the article No. 1 to have been fully proved and article No.2 to have been proved except the pilferage of 275 bags of full wheat. The copy of the enquiry report was sent to the workman and the workman submitted his representation dated 10-8-1993. Taking into consideration the materials on record the Disciplinary Authority held the article No.1 and the charge of pilferage of 275 bags of wheat in article-II to have also been proved against the workman and imposed the penalty already mentioned above. In the appeal and review petition filed by the workman such an objection was not taken. Moreover, though the Appellate Authority did not specifically mention about the workman not to be guilty of article No. 1 and charge of pilferage in article-II, indirectly held him not guilty of the said charges and modified the order of compulsory retirement and recovery of 50% of Rs. 3,53,728.00 + Rs. 15,748.75 and ordered his reinstatement in service and also recovery of basic pay of one year only.

As the facts and circumstances of the case at hand, as mentioned above are quite different. From the facts and circumstances of the case referred in the decision, with respect, I am of the view that the decision has no application to the present case.

8. The workman has tried to show that the Appellate Authority enhanced the penalty by making the reinstatement in service and by such order he sustained financial loss, by making calculation of the benefits he was to get on his compulsory retirement and the salary and benefits received on superannuation. However, it is found that the contention of the workman in that regard not to be correct, because he has not shown the benefits (salary and other payments) received by him on adjustment of the leave for the period of compulsory retirement to reinstatement. In view of the materials on record, and the discussion made above, it is held that the punishment is not shockingly disproportionate to the charges proved against the workman. Hence, it is ordered :

ORDER

1. The action of the management of FCI through Distt. Manager, Ajni, Nagpur in forcibly retiring Shri K. N. Mendhekar from Service w.e.f. 17-8-1996 is legal and justified and 2. The action of the management of FCI, through Distt. Manager, Ajni, Nagpur in reinstating Shri K.N.Mendhekar and posting as Gr. I 'D' as reversion from the post of Asstt. Manager (Depot), Akola is justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 30 मई, 2011

क्र. आ. 1710.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल ऑफ-

इण्डिया रेडियो के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चंडीगढ़, के पंचाट (संदर्भ संख्या 370/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-42012/142/2004-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S. O. 1710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 370/2k5) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Chandigarh, as shown in the Annexure, in the industrial dispute between the management of All India Radio, through Executive Engineer, C.C.W. and their workmen, received by the Central Government on 30-05-2011.

[No. L-42012/142/2004-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri A.K. Rastogi, Presiding Officer

Case No. I.D. 370/2K5

Registered on 18-08-2005

Sh. Jasvinder Singh S/o Sh. Jagat Singh, R/o Village Gokulpur, Tehsil Anandpur Sahib, District Ropar.

....Applicant

Versus

1. The Executive Engineer, C.C.W., All India Radio, 209, Rehari Colony, Jammu.
2. The Assistant Engineer, C.C.W., All India Radio, Jammu.
3. Sh. Vijay Kumar, Contractor through Executive Engineer, C.C.W., All India Radio, 209, Rehari Colony, Jammu.

....Respondents

APPEARANCES

For the Workman Sh. Manoj Dhiman, Advocate.

For the Management Sh. K.K., Thakur, Advocate

AWARD

Passed on 10th May, 2011

Central Government vide notification No. L-42012/142/2004-IR(CM-II) Dated 18-07-2005, by exercising its powers under Section 10, Sub-section (1) Clause (d) and Sub-section 2(A) of the Industrial Disputes Act,

1947(hereinafter referred to as Act) has referred the following Industrial dispute for adjudication to this Tribunal :—

“Whether the action of the management of All India Radio through Executive Engineer CCW (AIR) in terminating the services of Sh. Jaswinder Singh, Driver instead of regularizing his services legal and justified? If not, what relief he is entitled to and from which date?”

Vijay Kumar contractor, a party in the reference has not been impleaded as a respondent in the claim statement and only Union of India, Executive Engineer and Assistant Engineer (Civil Construction Wing) AIR have been impleaded as respondents.

The workman has raised an industrial dispute by stating that he had been engaged by the respondents of the Claim Statement through a contractor in October 1998 on the post of Driver. Since he had been engaged by the respondents themselves hence, there was a relationship of employer and employee between the respondents and him. He worked for about one year and three months and completed 240 days continuous service with the respondents but his services were terminated by them without following the procedure provided under Section 25 F and in violation of Section 25 G of the Act. He has alleged the violation of Section 25H also and has claimed re-engagement and regularization and the back wages.

The claim was contested by the respondents 1 and 2. According to the answering respondents the management had engaged the Driver on contractual basis for a specific period on work order basis and the contract had been made with one Shri Vijay Kumar for providing the Driver for a period of 90 Days on certain terms and condition. There was no contract of employment between the management and the workman. One of the terms of the contract with Vijay Kumar was that the contract would cease to operate from the date a regular Driver is engaged/appointed and the post has now been filled by a regular work-charge Driver by posting/transfer from other Division and the new incumbent joined his duties on 21-12-1999. It was denied that workman had completed 240 days continuous service and was an employee of the management. According to the answering respondents the workman is not entitled to any relief.

On the pleadings of the parties following issues arise for consideration:-

1. Whether there was a relationship of employer-employee between the respondents of the claim statement and the workman?
2. Whether the workman was an employee of a contractor ?
3. Whether the workman is entitled to the protection of Section 25 F of the Act?

4. Whether services of the workman were terminated by the respondents of the claim statement in violation of Section 25 G of the Act?
5. Whether the respondents of the claim statement violated the provisions of Section 25 H of the Act, if so, its effect?
6. To what relief, if any, the workman is entitled?

In support of his case the workman tendered his affidavit along with certain documents while the respondents tendered the affidavit of Sh. A.K. Jain, Executive Engineer (Civil), AIR, Jammu and examined the alleged contractor Vijay Kumar who is also a party in the reference order. Respondents also relied on certain documents.

I have heard the learned counsel for the parties and perused the material on record. My findings on various issues are as follows:-

Issue No. 1&2

Issue No. 1 and 2 are interconnected hence, they are being disposed off together. The case of the workman is that he was an employee of the respondents of the claim statement but according to the respondents the workman was an employee of a contractor named Vijay Kumar. It is well settled principle of law that the person who sets the plea of existence of relationship of employer-employee, the burden will be upon him. So it is for the workman to establish the employer-employee relationship between the respondents and the workman.

In the claim statement the workman has stated that the respondents engaged the services of the workman through a contractor but in his affidavit he concealed the fact of his engagement through contractor and in para 1 of the affidavit he started that the respondents had engaged his services in the month of October 1998 and the respondents appointed him after taking the necessary test of the driving etc. In his cross-examination also he denied that he had been engaged by the management through contractor. Not only this he even denied to know any Vijay Kumar contractor. Obviously he is not speaking the truth in his affidavit or in his cross-examination.

Besides the claim statement, two judgements of the Hon'ble Jammu & Kashmir High Court in SWP No. 2733 of 1999 Jaswinder Singh Versus Union of India and others and LPA(SW) No. 528 of 2001 filed by the workman himself as Annexures D of Claim Statement are also relevant. The workman had approached Hon'ble High Court for his regularization and as it is mentioned in the judgement in LPA(SW) 528 of 2001 he had contended before the Hon'ble High Court that he had been engaged as a driver by a private contractor namely Vijay Kumar. He had filed SWP No. 2733 of 1999 for his regularization and the writ had been decided by a Hon'ble Single Judge with directions

to respondents. But in LPA(SW) No. 52 of 2001 of the respondents a Divisions Bench of the Hon'ble Court set aside the order of Hon'ble Court Single Judge with the liberty to workman to seek the remedy under the Industrial Disputes Act. The respondents plea that the workman had been engaged under a work order to the contractor Vijay Kumar therefore cannot be doubted.

Though the workman has not disclosed in his claim statement the date of his appointment and of the termination of his services but management witness MW-1, A.K. Jain during cross-examination had admitted that workman had worked from 27-2-1997 to 20-12-1999 for the management. It is important to note that in the Annexures of the Affidavits of the aforesaid management witness none relates to the aforesaid period. Annexure R-3 and R-6 are the copies of the same work order dated 15-05-98. The other Annexures also do not relate to the relevant period. However, other documents which though do not form part of the affidavit of the management witness, but are available on record are however, relevant. These are work order dated 18-1-99 paper No. 302, work order dated 20-4-99 paper no. 308, work order dated 19-7-99 paper No. 320 and work order dated 18-10-99 paper no. 333 and they all are in favour of Vijay Kumar contractor and thereby the contractor had been given the work of supplying a driver for day to day driving work for three months at a time.

Respondents had examined the said contractor Vijay Kumar in the evidence also. He has supported the fact that he had supplied the workman to management as driver and earlier the workman had worked with him as driver. In cross-examination he stated that he possess the License to work as contractor.

The workman had relied on a number of papers to prove that he was an employee of the respondents. He filed copies of Identity Card Ex.P-1, Attendance Sheet Ex.P-2 to P-8, copy of Log Book as Ex.P-9, Fuel Receipts Ex. P-10 to P-70, Out of Station Allowance Bill Ex. P-71 to P-77 and Repairs Bills of the Vehicle Ex. P-78 to Ex. P-82 and contended in his affidavit that his services were under the control and supervision of the respondents. But he admitted during cross-examination that the post of Driver has not been notified in the newspaper and he had not been given any appointment letter and he had been engaged by a J.E. of management.

It was argued by the learned counsel for the management and it is mentioned in the affidavit of management witness also that since the entire J & K was having turmoil situation hence, for security reasons every person whether serving in any Government department or in Public Sector had to obtain his Identity Card and therefore, the workman had been issued an Identity Card for the purpose of security check-up as well as control entries in Government offices. Regarding attendance sheets

it was argued that they were being maintained by the respondents since the payment of wages of the concerned workman was to be made to the contractor on the basis of the working days of the concerned workman and the respondents never paid wages to the workman directly.

The arguments of the learned counsel of the workman is that since the workman worked under the control and supervision of the respondents hence, he is an employee of the respondents.

In this regard the law laid down by the Hon'ble Supreme Court in workmen of Nilgiri Cooperative Marketing Society Limited Versus State of Tamil Nadu 2004-II-LLJ-253 is relevant. It was laid down that no single test be it control test, organization test or any other test was determinative test for determining the jural relationship of employer and employee. The Court is/required to consider several factors which would have a bearing on the result; (a) who is appointing authority? (b) Who is pay master? (c) Who can dismiss? (d) How long alternative service lasts? (e) The extent of control and supervision (f) The nature of job, whether it is professional or skilled work? (g) Nature of establishment (h) The right to reject.

Applying the above test it will be seen that there is no evidence to show that the respondents had appointed the workman, wages were paid by them and the services of the workman were terminated by the respondents. The workman worked for a brief period of about 1 year 3 months from 27-10-1998 to 20-12-1999. There is nothing on record to show that he was subject to disciplinary control of the respondents and they had a right to take action against him in case of any aberration on his part. Hence, the relationship of employer and employee between the respondents and workman is not established.

From the claim statement of the workman and his case in SWP No. 2733 of 1999 and from the statement of management witness A.K. Jain and contractor Vijay Kumar it is clear that he was an employee of the contractor. Simply because he got the repair work done on the vehicle and get it fuelled his attendance was being marked by the respondents of the claim statement and he had been issued an Identity Card, it is not proved that he was an employee of the respondents of the claim statement. When a person works on a machine he is supposed to get the incidental work done in relation to that whether he is an employee of the owner of the machine or of the contractor who supplied him to the owner for working on the machine.

It is therefore, held that the workman was not an employee of the respondents of the claim statement and there was no relationship of employer and employee between them, the workman was an employee of the contractor. Issue No.1 and 2 are decided against the workman accordingly.

Issue No. 3, 4 & 5

Since the workman was not an employee of the respondents of the claim statement hence, he is not entitled to the protection of Section 25F of the Act against the respondents. His services were not terminated by the management of AIR through Executive Engineer CCW (AIR). Since he was not in the employment of AIR hence, the question of compliance of Section 25G and 25H of the Act also does not arise. Issue No. 3, 4 and 5 are accordingly decided against the workman.

Issue No. 6

From the above going discussion it is clear that the workman was not an employee of the management of AIR and his services were not terminated by the management hence, he is not entitled to any relief. The reference is answered accordingly against the workman. Let two copies of award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 61/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/146/2001-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S. O. 1711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of of Ballarpur Colliery 3/4 Pits of WCL, and their workmen, received by the Central Government on 30-5-2011.

[No. L-22012/146/2001-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/61/2002

Date: 11-05-2011

Party No. 1 : The Sub Area Manager,
Ballarpur Colliery 3 & 4 Pits, Post &
Tah : Ballarpur, Dist - Chandrapur.

Versus

Party No. 2 : Shri Anil Kumar,
Dependant of late Shri Ramdhari
through RKKMS (INTUC),
Ballarpur Colliery Mines,
Qtrs. No. 72/2, Ballarpur Colliery,
Chandrapur.

AWARD

(Dated: 11th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Sub Area Manager, Ballarpur Colliery of WCL and the Petitioner, Shri Anil Kumar for adjudication, as per letter No.L-22012/146/2001-IR(CM-II) dated 07-05-2002, with the following schedule:—

"Whether the action of the Sub Area Manager, Ballarpur Colliery 3/4 Pits Ballarpur, Distt. Chandrapur in not providing employment to Shri Anil Kumar, dependant of late Ramdhari as per Section 10.4.2 of NCWA-II is legal and justified ? If not, to what relief Shri Anil Kumar is entitled to ?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the union, "Rashtriya Koyalak Khadan Mazdoor Sangh" ("the union" in short) filed the statement of claim on behalf of Petitioner, Shri Anil Kumar ("the Petitioner" in short). The management of Sub Area Manager of Ballarpur Colliery of Western Coalfields Limited ("the Party No. 1" in short) file its written statement.

The case of the petitioner as projected in the statement of claim is that his father, Ramdhari was an employee of the Party No.1 and was working as a General Mazdoor and his father died a premature death on 12-12-1982 and his mother had already predeceased his father who died on 4-3-1980 and at the time of the death of his father, he was a minor and he attained majority on 20-7-1993 and as such, after the death of his father, he did not apply for compassionate appointment, as he was not legally competent to apply for the same till attaining majority and at the time of the death of his father, the provisions of NCWA-II was in force and according to the provisions of article 10.4.2 of NCWA-II, if any employee/workman dies during the period of his service, then one of his dependent has to be absorbed in service in his place and as his father died while in service and his mother had already predeceased his father, he was entitled for absorption in service, but as he was a minor at that time, he did not apply for appointment, but by way of abandoned caution, he had informed and applied for employment on 19-7-87,

much before of his attaining majority and had communicated his willingness to work and serve the employer and after attaining majority, he applied for his absorption in service in place of his father, as per the provisions of NCWA-II to V, but the Party No.1 unfortunately did not take the matter seriously and did not provide him any employment and ultimately, he was informed by the employer on 10-6-96 that he cannot be given employment and the matter thereafter was taken up and reopened in the Head Office at Nagpur and came up for discussion on 22-10-97 before GM (IR) and as his case was a genuine one, it was agreed to send the proposal for reconsideration by the CMD, but the case was not considered seriously and every time it was regretted on the ground that since the case is old, no-employment can be provided and again it was decided to refer his case to the Director (Personnel) and in the discussions held on 10-12-99 and 18-12-99, it was agreed to re-examine the case. The further case of the petitioner is that the employer initially avoided to absorb him in service on the ground that there are many cases in which fake persons have wrongly been absorbed in service causing heavy loss to the employer and therefore, the Party No. 1 proposed to call for verification report from the Police and accordingly, called for the police verification report not only from Superintendent of Police, Chandrapur but also from the police station, Dhanpur and both the reports were in his favour and in spite of receipt of the reports in January/February, 99, the Party No. 1 did not take any positive action and kept him in hanging position, without providing him any service and he is a matriculate and is ready to take up any job of any category in any department of Ballarpur Colliery and Party No.1 intentionally and deliberately did not employ him and as such, he is entitled for appointment and also compensation of Rs. 20 lakhs for loss caused to him deliberately. The petitioner had prayed for a direction to the Party No.1 to absorb him in Ballarpur Colliery and to-pay compensation of Rs. 20 lakhs .

3. The Party No.1 in its written statement pleaded interalia that this dispute has been raised by the petitioner for compassionate appointment through the union and as late Ramdhari was not a member of said union, the union has no locus standi to raise the dispute and as such, the reference is not maintainable. It is further pleaded by the Party no. 1 that the dispute was raised by the petitioner for the first time before the Assistant Labour Commissioner (C), Chandrapur on 3-3-2000 i.e. after a lapse of about 18 years and as such, the reference is extremely belated and is not maintainable in view of the judgement of the Hon'ble Apex Court in the case of Neungadi Bank Vs. K.P.M. Kutt reported in AIR 2000 SC pg .839 and Ramdhari, who was working as a general mazdoor in Ballarpur Colliery 3/4 pits died on 12-12-1982 and the dependant of the deceased did not make any claim for employment after the death of late Ramdhari and the application of the petitioner was forwarded to the competent authority at headquarters for

taking decision and the competent authority regretted to provide employment to the petitioner on compassionate ground as the claim was made after the lapse of several years and the decision of the competent authority was communicated to him in time and the union after lapse of several years raised the issue in various forums including the Chairman-cum-Managing Director of the company and the decision of the company regretting to provide employment to the petitioner on the ground of the case of highly belated was communicated to the union also. The further case of the Party No. 1 is that compassionate appointment cannot be claimed as a matter of right and passage of time itself is a determining factor, which makes a person disentitled for claiming for compassionate employment and the provisions of NCWA in regard to providing employment on compassionate ground is not attracted in this case and no one approached the management claiming employment immediately after the death of deceased workman and calling for police verification report does not give a right to the petitioner to claim employment and as such, the petitioner is not entitled for any relief.

4. Both the parties have adduced oral evidence in support of their respective cases, besides relying on documentary evidence. The petitioner, Anil Kumar and one Nandalal Verma have been examined as witnesses on behalf of the petitioner. Shri Ashok Sadaramji and Shri Yadaorao Shende have been examined on behalf of the Party No. 1. The witnesses have reiterated the facts mentioned in the statement of claim and written statement respectively.

5. At the time of argument, it was submitted by the petitioner that according to clause 10.3.2 of NCWA-II, the Party No. 1 was bound to give employment to him, as he is the dependent of his deceased father, Ramdhar, who was a workman under the Party No. 1 and who admittedly died on 12-12-82 in harness and the management witness No. 2 has admitted that giving employment to the dependant son of a deceased employee is mandatory on the part of the management and the clause of giving employment to one dependent of the worker, who dies while in service continues to exist in the subsequent NCWA-III to VII and also the agreement No. VIII, which is presently in force and in the NCWA, no time limit has been provided for claiming employment by the dependant and in the present case, there was no delay in making application for his employment, as the application was filed by him, soon after his attaining majority and his engagement in some private job cannot be taken as a ground for his appointment by the Party No. 1. In support of such contentions, reliance has been placed on the decision reported in 2007 (115) FLR 427 (Mohan Mohato Vs. M/s Central Coalfields Ltd. and Others).

6. On the other hand, it was submitted on behalf of the management that the application filed by the petitioner

for employment on compassionate ground was rejected as it was a highly belated application and later on, the union took the matter at various levels and the board of functional directors decided the case to be very old and of having no merit and the decision was communicated to the petitioner and so also to the union and due to the delay in submission of the application for employment of the petitioner, the reference is not maintainable. It was also submitted that the petitioner cannot be said to be the dependant of late Ramdhar, as the petitioner had admitted that he was staying with his mother in Uttar Pradesh while Ramdhar was working at Ballarpur and after the death of her mother, he was brought up by his elder father, Shri Kalika Kashi as his son and moreover, the petitioner had admitted that he is working in a security company and he is engaged at WCL at Ballarpur area and as such, he is not entitled for employment. In support of such contentions, management has relied on the judgement of Hon'ble Jharkhand in case No. CWJC No. 1352 of 2001 (Shankar Nonia Vs Central Coalfields Ltd.) and 2004-II-LLJ page 50 (High Court of Jammu and Kashmir) (Ramesh Singh Vs. State of J & K).

8. Before delving into the merit of the case, I think it proper to mention about the facts not disputed by the parties. It is the admitted case of the parties that Ramdhar, the father of the petitioner was in employment of the Party No. 1 and he expired on 12-12-1982, while in service. It is also not disputed that the petitioner is the son of late Ramdhar. It is also not disputed that the petitioner filed application for employment on compassionate ground and his application was rejected by the Party No. 1.

The main grounds taken by the management is that the application filed by the petitioner was too belated and compassionate appointment is not a matter of right and such appointment can only be made to save the family from distress.

It is found from the evidence on record, both oral and documentary that the petitioner was about 7 years old at the time of the death of his father on 12-12-1982. It is also found from the record that mother of the petitioner was already dead prior to the death of his father. As the petitioner was only seven years of age at the time of the death of his father, there was no question of his submission of any application for employment on compassionate ground. It is also found from record that soon after attaining majority, the petitioner submitted an application for compassionate appointment and such application was considered by the management. It is also found that the management regretted to appoint the petitioner but no valid reason was assigned for the same. It is also found that as per the definition provided in clause 10.3.2 of NCWA-II, the petitioner is a dependant of late Ramdhar. There was no delay in filing the application by the petitioner for his employment on compassionate ground, as it is found from the record that such an application was

filed on 30-8-93. It is also found that the management agreed to consider the case of the petitioner again and again but did not give any employment. No specific reason had been assigned by the management for not giving compassionate employment to the petitioner. The temporary engagement of the petitioner in some private work cannot be taken as a ground to refuse employment to the petitioner. Likewise, the fact that the petitioner was brought up by his elder father as his son also cannot be considered as a ground to hold the petitioner not to be a dependant of late Ramdhar in view of the definition given in clause 10.3.2 of NCWA-II.

9. So far as the two decisions cited by the management in support of their contentions are concerned, with respect, I am of the view that the said decisions have no application in the present case at hand, as the facts and circumstances of the cases referred in those decisions are quite different from the facts and circumstances of the present case at hand. In the decision reported in CWJC No.1352/2001 (supra), the application for compassionate appointment was filed by the petitioner 8 years after attaining majority and the writ application was filed after 15 years and there was also dispute regarding the relationship between the petitioner and the deceased worker and as such, the Hon'ble High Court was pleased to hold that such a belated application cannot be entertained. Likewise, in the decision reported in 2004-II-LLJ-50 (Supra), the family members of the deceased employee were getting salary for a period of 7 years and for a period of 11 years, the petitioner did not bother to apply to get the job and as such, the Hon'ble Court held that the petitioner was not entitled for compassionate appointment. However, in the present case at hand, it is found that the petitioner even before attaining majority had filed an application before the Party No.1 for compassionate appointment and soon after his attaining majority, he filed fresh application to employ him on compassionate ground and also pursued the matter and the management also agreed to consider his case again and again but did not give him any employment.

10. In the judgement reported in 2007 (115)FLR 427 (supra), it has been held by the Hon'ble Apex Court that the settlement within the meaning of section 18 (3) of the Industrial Disputes Act, 1947 is binding on both the parties and continue to remain in force unless the same is altered, modified or substituted by another settlement and Public Sector Undertaking is a state within the meaning of Article 12 and it is under a constitutional obligation not only to act fairly but also reasonably and bonafide. In this case, as per NCWA-II, the petitioner is entitled for employment on compassionate ground and the parties are bound by the said agreement. "Giving an employment to a dependent of a deceased employee" has not been changed in subsequent NCWA. Rather, it is found that subsequently some changes were made to the said clause to give

employment to a dependent of a deceased employee and for that purpose to enroll the name of the minor son above 12 years of the deceased employ in a separate register and to give employment after his attaining majority.

Admittedly, the petitioner had made an application for compassionate employment soon after his attaining majority, but his application was not duly considered and no employment was given to the petitioner, so, he was bound to knock the doors of various authorities for redress and in the mean time, he has crossed the age of 35 years and he is running 36 years. From the facts and circumstances of the case as mentioned above and the materials on record, it is found that the petitioner is entitled for employment, after condonation of his over age for appointment. Hence it is ordered :

ORDER

The action of the Sub Area Manager, Ballarpur Colliery 3/4 Pits Ballarpur, Distt. Chandrapur in not providing employment to Shri Anil Kumar, dependant of late Ramdhar as per Section 10.4.2 of NCWA-II is not legal and justified. The petitioner, Shri Anil Kumar is entitled for employment as per the provision of NCWA on compassionate ground, after condonation of his over age. The Party No.1, management of Ballarpur Colliery is directed to provide employment to the petitioner commensurate with his skill and qualification, within one month from the date of publication of the award in the official gazette. The petitioner is not entitled for any other relief including compensation.

J. P. CHAND, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण नागपुर, के पंचाट (संदर्भ संख्या 111/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/22/2002-आई आर (सी एम-II)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S. O. 1712.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 111/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Kawadi Open Cast Mine of Western Coalfield Ltd., and their workmen, received by the Central Government on 30-5-2011.

[No. L-22012/22/2002-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT /NGP/111/2002

Date: 9-5-2011.

Party No. 1 : The Sub Area Manager,
Kawadi Open Cast Sub Area of
Western Coalfield Ltd., Post-
Shivjinagar,
Dist. Chandrapur.

Versus

Party No. 2 : Shri Shridhar Namdeo Mohitkar,
Kawadi Open Cast Mine,
Chandrapur.

AWARD

(Dated : 9th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Kawadi Open Cast Sub Area of Western Coalfield Ltd. and their workmen, Shri Shridhar Namdeo Mohitkar for adjudication, as per letter No. L-22012/22/2002-IR(CM-II) dated 12-8-2002, with the following schedule:—

"Whether the action of the management in relation to Kawadi Open Cast Sub Area (Majri Area) of Western Coalfields Ltd. in dismissing Shri Shridhar Namdeo Mohitkar, Driver, Kawadi Open Cast Mine from service vide Order No. WCL/MA/KOC/PER/2000/2352 dated 5-3-2000 is legal and justified? If not, to what relief is the workman entitled?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the workman, Shri Shridhar Namdeo Mohitkar ("the workman" in short) filed his statement of claim and the management of Kawadi Open Cast Sub Area of Western Coalfield Ltd. ("the Party No. 1" in short) filed its written statement.

The case of the workman as projected in his statement of claim is that he came to be appointed as a General Mazdoor category-I on 25-7-1993 and he was promoted to category-II on 1-1-1995 in view of his good service record and was engaged as a driver and he worked as a driver till the date of his dismissal w.e.f. 5-3-2000 and his entire service period of seven years was unblemished and without any stigma and his appointment was made on selection, by the selection committee by adopting the usual procedure and rules against clear vacancy of General Mazdoor Category-I and his service came to be terminated

vide order No. Vekoli/Kawadi/Sub-area/Karmik/2000 dated 5-3-2000 with immediate effect and there was no one month's notice in advance or payment of one month's pay in lieu of the notice and there was also no payment of retrenchment compensation before termination of his service and juniors to him in service were retained in service and prior to termination of his service, no show cause notice or charge sheet was issued against him and the action of the management is not legal and justified and not in accordance with the provisions of law and his request to the Party No.1 did not yield any result, so the dispute was raised before the Assistant Labour Commissioner (Central) Chandrapur and on submission of failure report of conciliation by the ALC to the Central Govt., the dispute was referred to this Tribunal for adjudication. The workman has prayed to set aside the order of termination of his service and to pass orders for his reinstatement in service with continuity and full back wages.

3. The Party No. 1 in its written statement has pleaded inter-alia that the workman was working as a driver at Kawadi Open Cast Mine, before he was dismissed from service and the nature of his duty was such that he was required to maintain sincerity and honesty in his work and on 26-12-2000, while the workman was on duty in the second shift, he committed serious acts of misconduct for which, he was charge sheeted under the provisions of Certified Standing Order vide charge sheet dated 27-1-2000 and considering the seriousness of the misconduct, he was placed under suspension and was asked to submit his written explanation within 72 hours and the workman submitted his explanation vide his letter dated 29-1-2000, denying the allegation made in the charge sheet and as the explanation was found not to be satisfactory, an enquiry was ordered by the Party No.1 vide memo dated 1-2-2000 and Shri J. S. Sayare was appointed as the Inquiry Officer and the Inquiry Officer fixed the enquiry to 12-2-2000 and the workman attended the enquiry and sought for adjournment, for appointment of co-worker for his defence, so, the enquiry was adjourned to 17-2-2000, but before adjournment of the enquiry, the charges were read over and over and explained to the workman and the workman denied the charges and on 17-2-2000, the workman attended the enquiry with his co-worker and participated in the enquiry fully and some of the witnesses for management were examined and cross-examined by the workman and the case was adjourned to 19-2-2000 and on that day also, the workman and his co-worker participated in the enquiry and after examination and cross-examination of some other management witnesses, evidence from the side of the management was closed and the enquiry was deferred to 20-2-2000, on which date, the workman examined himself and was cross-examined by the management representative and documents AD-1 to AD-5 were admitted into evidence and evidence from the side of the workman

was closed and on 24-2-2000, management representative made argument and workman filed his written argument and enquiry was closed and the Inquiry Officer submitted his report to the Party No.1 holding the charges levelled against the workman to have been proved and copy of the enquiry report was supplied to the workman vide letter dated 29-2/2-3-2000 and the workman was asked to submit his show cause, as to why he should not be dismissed and the workman submitted his reply on 4-3-2000 and considering the seriousness of the misconduct, which was duly proved, the workman was dismissed from service w.e.f. 6-3-2000, with approval of the competent authority and the workman filed an appeal to the Chief General Manager, Majri Area vide his letter dated 25-3-2000, but the same was not considered by the Chief General Manager, as he was not the competent authority to hear the appeal and the workman filed writ petition No. 2290/2000 before the Hon'ble High Court, Nagpur bench and in the course of the hearing of the writ, as it was pointed out about the workman not filing the appeal before the competent authority, the Hon'ble Court directed the disposal of the appeal by the Director (Tech) and the Appellate Authority considered the appeal but rejected the same and therefore, the industrial dispute was raised.

It is also pleaded by Party No.1 that the enquiry held against the workman was fair and proper and the punishment of dismissal was also legal and justified and there was no necessity of giving one month's notice or retrenchment compensation to the workman, as it was not a case of retrenchment of the workman and as such, the workman is not entitled for any relief.

4. The workman filed his rejoinder stating therein that the punishment of dismissal from service is quite disproportionate to the charge levelled against him in respect of misappropriation of one gallon of petrol worth Rs.200 only and in the enquiry, he was not allowed to be represented by his co-worker and he was not given chance to cross-examine the witnesses for the management and also to adduce evidence in his defence and the enquiry was illegal and against the principles of natural justice and the findings of the Inquiry Officer are perversed and criminal case No. 20/2000 was also registered against him the police as the matter was reported to the police by Party No.1 and he faced his trial for commission of the alleged offence u/s 381 and 411 I.P.C. in the Court of J.M.F.C., Bhadravati but he was acquitted by the Court on 23-8-2002 and as such, the enquiry conducted by Party No. 1 is not proper and against the principles of natural justice.

5. As this is a case of dismissal from service after holding a departmental enquiry, the validity of the enquiry was taken for consideration as a preliminary issue and by order dated 4-10-2006, the enquiry was held to be legal, proper and in accordance with the principles of natural justice.

6. Now, the questions require to be considered are as to whether the findings of the Inquiry Officer are perversed and the punishment is shockingly disproportionate.

The workman examined himself as a witness on the point of punishment. He has stated that the punishment is quite disproportionate to the charges levelled against him.

7. It was contended from the side of the workman that the order of dismissal is illegal as the same is in breach of the condition under clause 17(ii) of the Industrial Employment (Standing) Order Central Rules, 1946 and prior to the termination order, no show cause notice in regard to the proposed punishment alongwith enquiry report was served and there was violation of Section 25-F of the Act, as neither one month's notice nor one month's pay in lieu of notice nor any compensation was paid and in view of the acquittal of the workman in the criminal case, he should not have been punished in the departmental enquiry. It was also contended that the punishment imposed against the workman is shockingly disproportionate and it is necessary to set aside the order of termination dated 5-3-2000 and to reinstate the workman with continuity and full back wages. In support of the contentions, reliance has been placed on the decisions reported in AIR 1996 SC-350 (S. K. Giri Vs. Home Secretary, Ministry of Home), AIR 2002 SC-1313 (Haryana Urban Development Authority Vs. Devi Dayal) and 1998 (1) Bom. LC—320 (Bajaj Auto Consumers Co-Op. Society Ltd., Pune Vs. Uttam Dayanand).

8. On behalf of the Party No.1, it was contended that the workman neither in his statement of claim nor in the rejoinder nor in his affidavit has challenged the findings to be perversed, though he has challenged the fairness of the enquiry and therefore, the said issue deserves to be answered in favour of the Party No.1 and the Inquiry Officer has submitted a detailed report and the findings are based on the evidence on record and on detailed analysis of the evidence, both oral and documentary and as such, the findings cannot be said to be perversed and the job of the workman as a Driver was that of a responsible job and he was enjoying the confidence and trust of the management but he betrayed such confidence and trust and committed theft of company's property dishonesty, which is a very serious misconduct and which reflects upon the integrity of the workman and as such, he does not deserve to be retained in service and the punishment cannot be said to be shockingly disproportionate to the charges levelled against him.

In support of such contentions, reliance has been placed on the decisions reported in 1996 LAB IC-462 (B.C. Chaturvedi Vs. Union of India and others), 2003, LAB I.C. 757 (Regional Manager, U.P. S.R.T.C., Etawah Vs. Hotilal), 2005 LAB IC-4158 (V. Raman Vs A.P.S.R.T.C. and others), 2005 LAB, IC-854 (Bharat Forge Co., Ltd. Vs. Uttam Manohar

Nakate) and 2008 LAB I.C.-415 (M/s L&T Komatsu Ltd. Vs. N. Udaykumar).

9. So far the contentions raised by the workman that prior to the termination order, no show cause notice in regard to the proposed punishment alongwith enquiry report was served on him and that in view of his acquittal in the criminal case, he should not have been punished in the departmental enquiry are concerned, it is to be mentioned here that the said contentions were already considered by the Tribunal while passing the orders on the validity of the departmental enquiry on 4-10-2006 holding that “a letter of proposed punishment was issued by the competent authority in the nature of show cause notice along with copy of report of Inquiry Officer and the workman submitted his reply to the same and that admittedly the workman was working as a Driver for about five years earlier to the incident and he was charged for committing theft of one barrel of diesel from Kawada Mine and the diesel was seized by the police and there was prosecution u/s 381 and 411 I.P.C. and the criminal court has acquitted the workman from the above charges but there cannot be a bar for continuing the domestic enquiry”. Hence, there is no need to consider the said contentions again. Moreover, it is found from the documents that the workman was supplied with the enquiry report and second show cause notice was also issued to him and he submitted his show cause. Hence, I find no force in the said contentions.

10. So far the submission made regarding non-compliance of the provisions of Section 25-F of the Act is concerned, as this is not a case of retrenchment from service but dismissal from service after holding a departmental enquiry, the provisions of Section 25-F of the Act are not applicable to the case.

On perusal of clause 17(ii) of the Standing Order of the Central Govt. (Industrial Employment Standing Orders) Act, 1946, it is found that there was no violation of the said clause.

11. According to the workman, the punishment imposed against him is too harsh and shockingly disproportionate to the charges. In support of such contention, reliance has been placed on the decision of the Hon'ble Apex Court reported in AIR 1996 SC-350 (supra). However, with respect, I am of the view that the said decision has no application to the present case in hand, in view of the reason that in the case referred in the decision, the Security Guard was absent from duty from the place, from which coal was stolen by intruders and as such, the Hon'ble Apex Court held that short absence cannot be regarded as absent from duty and removal from service of the Security Guard is too harsh and disproportionate. In the case in hand, the charge against the workman was commission of theft of diesel of the employer by the workman himself.

12. In this case from the materials on record, it is found that the charges of theft of diesel have been proved against the workman after an elaborate and fair enquiry. The findings of the enquiry are based on materials on record. Reasons have been assigned in support of the findings. Hence, it is found that the findings are not perversed. Amount of loss, as claimed by the workman, cannot be a consideration regarding the quantum of punishment. The workman, who was working as a Driver with the Party No.1 committed theft of a barrel of diesel by betraying the trust and confidence reposed upon him by his employer.

Applying the principles enunciated by the Hon'ble Apex Court in the decisions on which reliance has been placed by the Learned Advocate for the management to the facts and circumstances of the present case, it is held that the punishment imposed against the workman is not shockingly disproportionate, calling for interference.

In view of the above findings, there is no need to refer to the decision of the Hon'ble Apex Court reported in AIR 2002 SC - 1313, which is in regard to payment of back wages. Hence, it is ordered :

ORDER

The action of the management in relation to Kawadi Open Cast Sub Area (Majri Area) of Western Coalfields Ltd. in dismissing Shri Shridhar Namdeo Mohitkar, Driver, Kawadi Open Cast Mine from service vide Order No. WCL/MA/KOC/PER/2000/2352 dated 5-3-2000 is legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 30 मई, 2011

का.आ. 1713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 232/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/278/2002-आई आर (सी एम-II)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S. O. 1713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 232/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Hindustan Lalpath O/C Sub Area of Chandrapur of WCL, and their workmen, received by the Central Government on 30-5-2011.

[No. L-22012/278/2002-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/232/2003

Date: 12-05-2011.

Party No. 1 : The Sub Area Manager,
Hindustan Lalpath O/C Sub Area of
Chandrapur of WCL, Post-Lalpath,
Dist - Chandrapur (M.S.)

Versus

Party No. 2 : Shri Chandrakant Khandre,
General Secretary,
Koyla Shramik Sabha,
C/o C.G. Khandre,
Near Mahakali Mandir, Chandrapur,
PO & Dist. Chandrapur.

AWARD

(Dated: 12th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of the Hindustan Lalpath O/C Sub Area of Chandrapur of WCL and their workmen, S/Shri Singarveni Yellaiya, Komraiya Kanveni, Molgy Moddy for adjudication, as per letter No. L-22012/278/2002-IR (CM-II) dated 13-10-2003, with the following schedule :—

"Whether the action of the management in relation to Hindustan Lalpath U/G Sub Area of WCL in not protecting the wages of S/Shri Singarveni Yellaiya, Komraiya Kanveni, Molgy Moddy, Loader converted to time rate vide Office Order No. WCL/CHAN/36/598 dated 17/18-3-1997 is legal and justified ? If not, to what relief the workmen are entitled ?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the union, "Koyala Shramik Sabha (HMS), Chandrapur ("the union" in short) filed the statement of claim on behalf of the three workmen, S/Shri Singarveni Yellaiya, Komraiya Kanveni, Molgy Moddy ("the workmen" in short) and the management of Sub Area Manager ("the Party No.1" in short) filed its written statement.

3. In his statement of claim, the workmen prayed to pass the order directing the management to protect their basic and special piece rate allowance of Group V-A Loader as per NCWA.

4. The management in its written statement resisted the claim of workmen stating that the action of the

management is legal and the workmen are not entitled for protection of their basic pay and special piece rate allowance.

5. It is necessary to mention here that on 12-5-2011, advocate for the workmen filed an application stating that the workmen are not interested to pursue the reference as they have already been retired from service and their whereabouts is not known. The advocate for the management made endorsement of having no objection for closure of the reference.

In view of the application that the workmen did not want to proceed with the reference, it is necessary to pass "no dispute award" in this case. Hence, it is ordered :

ORDER

The reference be treated as "no dispute award". The application filed by the advocate for the workmen be made a part of the award.

J. P. CHAND, Presiding Officer

BEFORE THE HONOURABLE PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, NAGPUR

REFERENCE CASE NO. CGIT/NGP/232/2003

Management of W.C.L. Chandrapur Area,
ChandrapurEmployer

Versus

Their Workmen
(CASE OF SINGERBEHI AILYA
& OTHERS)Workmen/Union

APPLICATION OF WORKMEN/UNION TO
WITHDRAW/CLOSE THE CASE

(1) That the C. F. A. had been contacting the union representative Sh. Chandrakant Khandre, President Koyala Shramik Sabha (H.M.S.) Chandra Area, over phone and also was appraising the position of cases to him as well as President H.M.S., Nagpur in writing.

(2) That Shri Chandrakant Khandre issued instruction to withdraw/close the above case as the workmen have since retired and could not be contacted and are not interested to pursue the case.

(3) That in confirmation of the above C. F. A. had written a letter dated 19-4-2011 to Sh. Chandrakant Khandre, giving details of each case. The letter was sent by Post Regd. A/D vide Slip No. A 535 dt. 20-4-2011.

PRAYER : In view of above and direction of the union it is prayed to close the case as withdrawn.

Nagpur.
Dt. 12-5-2011

K.K. YADAVA, C.F.A.

नई दिल्ली, 30 मई, 2011

का. आ. 1714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम म्यायालय, नागपुर के पंचाट (संदर्भ संख्या 69/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/130/2005-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S. O. 1714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 69/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of M/s. Western Coalfields Limited, and their workmen, received by the Central Government on 30-5-2011.

[No. L-22012/130/2005-IR(CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/69/2006

Date: 13-05-2011

Party No.1

The Chairman-cum-Managing Director,
M/s. Western Coalfields Limited, Coal Estate,
Civil Lines,
Nagpur.

Versus

Party No.2

The General Secretary,
Lalzenda Coal Mines Mazdoor Union (CITU),
Coal Estate,
Civil Lines,
Nagpur.

AWARD

(Dated: 13th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947, (14 of 1947) ("the Act" in short),

the Central Government has referred the industrial dispute between the employers, in relation to the management of M/s. Western Coalfields Limited and their workman, Shri Raghunath Ujjan for adjudication, as per letter No.L-22012/130/2005-IR(CM-II) dated 03-08-2006, with the following schedule:-

"Whether the action of the management of M/s. Western Coalfields Limited in relation to Nandan Colliery No. 1 of Kanhan Area through the Superintendent/Manager, Nandan Colliery No.1 of M/s. Western Coalfields Limited Kanhan Area in awarding the punishment of demotion to the workman Shri Raghunath S/o Shri Ujjan Token No.3302 from the post of S.D.L. Operator Cat. VI to Cableman Cat.III vide order dated 25-6-2004 is legal and justified? If not, to what relief is the said workman entitled?"

2. On receipt of reference, though notices were sent to the workman, Shri Raghunath Ujjan, he did not file any statement of claim. On the other hand, on receipt of notice, the management of WCL filed its written statement pleading inter-alia that as the workman refused to obey lawful orders of his superiors to perform the duty that he was legally bound to do, a charge sheet was submitted against him and as his reply to the charge sheet was found to be not satisfactory, the departmental enquiry was initiated against him and the departmental enquiry was held by following the principles of natural justice and in the enquiry, the workman was found guilty of the charges and accordingly, punishment of reversion from the post of Operator category-VI to Cableman category-III was passed against him on 25-6-2004 and the punishment awarded is just and proper.

3. As per order dated 4-2-2011, the departmental enquiry held against the workman was held to be just and proper and by following the principles of natural justice.

4. It is necessary to mention here that the workman did not appear in the reference at all and did not take part in the hearing of the same and as such, the case proceeded against him ex parte.

5. Perused the written statement and documents filed by the management. There is no iota of evidence on record to show that the findings are perversed and the punishment imposed against the workman is shockingly disproportionate to the proved misconduct of the workman. On perusal of the evidence on record, it is found that reasons have been assigned in support of the findings and the findings are not perversed. It is also found that the punishment imposed against the workman is also not shockingly disproportionate to the proved misconduct against the workman. Hence, it is ordered:

ORDER

The action of the management of M/s. Western Coalfields Limited in relation to Nandan Colliery No.1 of Kanhan Area through the Superintendent/Manager, Nandan Colliery No.1 of M/s. Western Coalfields Limited Kanhan Area in awarding the punishment of demotion to the workman Shri Raghunath S/o Shri Ujjan Token No.3302 from the post of S.D.L. Operator CatVI to Cableman Cat.III vide order dated 25-6-2004 is legal and justified. The workman is not entitled for any relief.

J. P CHAND, Presiding Officer

नई दिल्ली, 30 मई, 2011

का. आ. 1715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 65/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/337/2003-आई आर (सी एम-II)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S.O. 1715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 65/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Mahiri Area Kuchana of Western Coalfields Limited, and their workmen, received by the Central Government on 30-5-2011.

[No. L-22012/337/2003-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NAGPUR

No. 65/2004

Party No.1

The Chief General Manager,
Mahiri Area Kuchana of Western Coalfields Limited,
Post - Kuchana,
Tah.-Warora,
Dist- Chandrapur.

Versus

Party No. 2

Shri B.S.Ishwarkar,
Working President, Rashtriya Colliery,
Mazdoor Congress,
Vijay Bhawan Vitthal Mandir Ward,
Chandrapur.

AWARD

(Dated: 9th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947, (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Mahiri Area Kuchana of Western Coalfields Limited and their workman, Shri Shriniwas Lingaya Kankatwar for adjudication, as per letter No. L-22012/337/2003-IR(CM-II) dated 29-06-2004, with the following schedule:-

“Whether the action of the management in relation to Mahiri Area of Kuchana of Western Coalfields Limited in terminating the services of Sh. Shriniwas Lingaya Kankatwar, Dumper Operator, vide order No. WCL/MA/SAM/NMOC-II/PER/03/688 dated 10-3-2003 is legal and justified? If not, to what relief the workman is entitled to?”

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the union, “Rashtriya Colliery Mazdoor Congress” ("the union" in short) filed the statement of claim on behalf of Shri Shriniwas Lingaya" Kankatwar ("the workman" in short). The management of Mahiri Area Kuchana of Western Coalfields Limited ("the Party No.1" in short) did not file any written statement and as such, on 19-1-2007, order was passed to proceed with the reference without written statement and the workman was directed to adduce evidence in support of his claim on affidavit.

Though the workman was directed, by the Tribunal to adduce evidence on affidavit, the workman did not file any affidavit till 21-2-2008. Thereafter, neither the workman nor the union representative nor the management appeared in the case and as such, on 5-10-2010, a last chance was given to the workman to file affidavit and the case was posted to 22-12-2010. On 22-12-2010 also, the workman did not file any affidavit. On 22-2-2011, as no evidence was adduced from the side of the workman, the evidence from his side was closed and the management was directed to adduce

evidence, if any on affidavit and the case was posted to 19-4-2011 for the said purpose. As no evidence was adduced by the management, the evidence was closed on that day and the case was posted to 9-5-2011 for argument. On 9-5-2011, both the parties remained absent, so the case was closed for award.

3. In this case, the workman had challenged the validity of the departmental enquiry held against him and the punishment of dismissal from service. So, the burden was on the workman to prove the allegation made by him. But he did not adduce any evidence in support of such claim. As the workman has failed to discharge the burden by adducing any evidence, he is not entitled for any relief. Hence, it is ordered:

ORDER

The action of the management in relation to Majri Area of Kuchana of Western Coalfields Limited in terminating the services of Sh. Shriniwas Lingaya Kankatwar, Dumper Operator, vide order No. WCL/MA/SAM/NMOC-II/PER/03/688 dated 10-3-2003 is legal and justified. The workman is not entitled for any relief.

J.P.CHAND, Presiding Officer

नई दिल्ली, 30 मई, 2011

का. आ. 1716.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल डल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के खात्र, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के गंचाट (संदर्भ संख्या 19/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-2011 को प्राप्त हुआ था।

[सं. एल-22012/183/2006-IR जार (सं. एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 30th May, 2011

S. O. 1716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Neeljay Sub Area of M/s. WCL and their workmen, received by the Central Government on 30-5-2011.

[No. L-22012/183/2006-IR (CM-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICE CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/19/2007

Date: 10-05-2011.

Party No.1

The Sub Area Manager,
Neeljay Sub Area of M/s. WCL,
Wani Area,
Post Belora,
Tah. Wani,
Yavatnal (M.S.)

Versus

Party No.2

The Secretary,
Sanyukta Khadan Mazdoor Sangh,
Sanyal Bhawan,
Gandhi Nagar,
Ghugus Post Ghugus,
Chandrapur.

AWARD

(Dated: 10th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947, (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Neeljay Sub Area of M/s WCL and their workman, Shri S.B. Barekar for adjudication, as per letter No. L-22012/183/2006-IR(CM-II) dated 10-4-2007, with the following schedule :—

"Whether the action of the management of WCL denying promotion to Shri S.B. Barekar is legal and justified? If not, to what relief is the workman entitled?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the union, "Sanyukta Khadan Mazdoor Sangh" ("the union" in short) filed the statement of claim on behalf of Shri S. B. Barekar ("the workman" in short) and the management of WCL ("the Party No.1" in short) filed its written statement.

The case of the workman is that he was working as a Fitter-cum-Mechanic category-B since 1-7-1997 in Neeljay Sub Area of WCL and he was awarded with a certificate of best worker, on the Independence Day of 2002, by the Chief General Manager, Wani Area of WCL, but at the time of promotion, one Shri D.Y. Shivarkar was promoted from category-B to category-A, but the promotion of Shri Shivarkar was rejected after scrutiny of his caste certificate on the basis of roster system under

ST quota and after rejection of the promotion of Shri Shivarkar, another employee, Shri C.K.Kapde was promoted to the vacant post of Shri Shivarkar, but the said promotion was also rejected by the management of WCL on the same ground and after rejection of both the promotion orders, there was clear vacancy of Senior Mechanic category-A and he was a fit candidate for promotion to the said post, but he was not given promotion by Party No.1 and the union raised the dispute on his behalf. The workman has prayed to give a direction to the management to give him promotion from category-B to Senior Mechanic Category-A.

3. The management in its written statement has pleaded inter-alia that the reference is vague and void, as no date has been mentioned regarding the alleged denial of promotion to the workman and so also the name of the post to which the alleged promotion was denied. It is also pleaded by the Party No.1 that the caste certificate produced by the two employees were found to be not genuine, after verification and as such, their promotions were cancelled and the case of the workman was not considered nor recommended for promotion against the reserved quota, by the first DPC, as by that time, there was no record of the workman of his belonging to SC/ST category and even at the time of promotion order issued in May and July, 2005, the workman did not protest against the same and the workman submitted his caste certificate on 12-8-2005 and as such, when the next DPC was held on 25-8-2006, he was considered and recommended by the DPC and was promoted and therefore, there was no fault of the management in non-consideration of his case against the reserved vacancy during the first DPC and consequent promotion order and the workman suffered for his own omission and as such, the workman is not entitled for any relief.

4. In his rejoinder, the workman has admitted that he was given promotion in September, 2006, but such promotion was after harassment.

5. It is necessary to mention here that after filing the rejoinder, the workman did not appear in the case from 10-10-2008. He also did not adduce any evidence in support of his claim. So, the case proceeded ex parte against him.

6. Perused the record including the statement of claim, written statement, rejoinder and the schedule of reference. As the workman has already been promoted, which has been admitted by him in his rejoinder, it is found that this is a case, where a "no dispute award" is required to be passed. Hence it is ordered:

ORDER

The reference be treated as "no dispute award".

J. P. CHAND, Presiding Officer

नई दिल्ली, 31 मई, 2011

का.आ. 1717.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू.डी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-42012/104/92-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bikaner shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C. P. W. D. and their workmen, which was received by the Central Government on 31-5-2011.

[No. L-42012/104/92-IR(DU)]

JOHAN TOPNO, Under Secy.

अनुबन्ध

केन्द्रीय औद्योगिक विवाद अधिकरण, बीकानेर

पीठासीन अधिकारी—श्री ओम प्रकाश गुप्ता, आर.एच.जे.एस.

औद्योगिक विवाद सं. 1 सन् 1993

किशनलाल पुत्र श्री भैरुदान ओझा गवर्नरमेंट प्रेस के पीछे,
हनुमान हत्था, बीकानेर

(प्रार्थी श्रमिक)

विस्तृद्ध

अधिशासी अधियन्ता, केन्द्रीय खांड सी.पी.डब्ल्यू.डी, बीकानेर

(अप्रार्थी नियोजक)

प्रसंग अन्तर्गत धारा 10 (1) (घ),

औद्योगिक विवाद अधिनियम, 1947

उपस्थिति

1. अधिवक्ता राजेश श्रीवास्तव, प्रार्थी श्रमिक पक्ष के लिए

2. अधिवक्ता नरेश श्रीमाली, अप्रार्थी नियोजक के लिए

अधिनिर्णय

दिनांक 22 नवम्बर, 2010

श्रम विभाग, भारत सरकार द्वारा औद्योगिक विवाद अधिनियम, 1947 (जिसे आगे चलकर केवल 'अधिनियम' कहा जावेगा) की

धारा 10 की उपधारा (1) के खंड (घ) के अधीन जारी अधिसूचना क्रमांक एल-42012/104/92 दिनांक 20-9-1993 के द्वारा प्रेषित इस प्रसंग के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस अधिकरण में भेजा था :—

“Whether the action of the Executive Engineer, Central Division, C.P.W.D., Bikaner in terminating the services of Shri Kishanlal S/o Shri Bherudan, daily wage Beldar, w.e.f. 1-7-86 is legal and justified ? If not, what relief he is entitled to ?”

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया ।

3. उल्लेखनीय है कि पूर्व में पक्षकारों द्वारा प्रस्तुत लिखित अधिकरणों एवम् साक्ष्य के आधार पर इस प्रकरण में दिनांक 6 जुलाई, 1995 को प्रार्थी श्रमिक किशनलाल के पक्ष में अधिनिर्णय पारित किया गया था ।

4. दिनांक 6 जुलाई, 1995 को पारित अधिनिर्णय को अप्रार्थी नियोजक द्वारा माननीय राजस्थान उच्च न्यायालय में SB CIVIL WRIT PETITION No. 3352/1996 प्रस्तुत कर चुनौती दी गयी, जिसमें माननीय राजस्थान उच्च न्यायालय ने दिनांक 4-5-2009 को उक्त अधिनिर्णय को अपास्त करते हुए प्रकरण को विधि अनुसार नए सिरे से निस्तारित करने का आदेश प्रदान किया है । लिहाजा प्रकरण पुनः दर्ज रजिस्टर किया जा कर नए सिरे से कार्यवाही प्रारंभ की गई ।

5. प्रकरण के तथ्य संक्षेप में इस प्रकार है कि प्रार्थी श्रमिक किशनलाल (जिसे आगे चलकर केवल प्रार्थी श्रमिक कहा जावेगा) द्वारा इस अधिकरण में दिनांक 14-10-1993 को प्रस्तुत अपने statement of claim में मुख्य अभियन्ता, नई दिल्ली, अधिशासी अभियन्ता, केन्द्रीय लोक निर्माण विभाग बीकानेर व सहायक अभियन्ता, केन्द्रीय उपखण्ड, बीकानेर, केन्द्रीय लोक निर्माण विभाग 12 सादुलगंज, बीकानेर को बतौर अप्रार्थीयण पक्षकार बनाते हुए अपनी नियुक्ति दिनांक 11-9-1985 को चतुर्थ श्रेणी कर्मचारी बेलदार (चौकीदार स्टोर) के पद पर केन्द्रीय लोक निर्माण विभाग बीकानेर में नियुक्त होना एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य करने के आधार पर लगातार कार्य करने वाला औद्योगिक कर्मचारी हो जाना एवम् अपनी सेवा दिनांक 30-9-86 को सहायक अभियन्ता एवं अधिशासी अभियन्ता, केन्द्रीय लोक निर्माण विभाग बीकानेर द्वारा मौखिक रूप से terminate बतौर ‘retrenchment’ करना अंकित किया है ।

6. अप्रार्थी विभाग की ओर से कार्यपालक इंजीनियर, बीकानेर केन्द्रीय मण्डल, केन्द्रीय लोक निर्माण विभाग बीकानेर द्वारा प्रस्तुत जवाब में प्रार्थी श्रमिक द्वारा प्रस्तुत statement of claim में वर्णित समस्त तथ्यों को अस्वीकार करते हुए बताया गया है कि प्रार्थी श्रमिक को केजुअल लेबर के रूप में दैनिक वेतन भोगी श्रमिक के कार्य के लिये रखा गया था, उसकी नियमित भर्ती नहीं की गयी थी ।

अप्रार्थी द्वारा जवाब में यह भी लिखा गया है कि प्रार्थी श्रमिक ने द्वयं ही अपनी इच्छों से काम पर आना बन्द कर दिया था । प्रार्थी

का यह कथन असत्य है कि उसे सहायक अभियन्ता व अधिशासी अभियन्ता, ने मौखिक आदेश से रिट्रैन्च कर दिया । अप्रार्थी का जवाब है कि यह सेवा टर्मीनेट का मामला नहीं है, बल्कि श्रमिक का सेवा से एबण्डनमेंट का मामला है ।

7. साक्ष्य के दैरान प्रार्थी श्रमिक किशनलाल ने स्वयं का शपथपत्र दिनांक 14-1-1994 को पेश किया था, जिसके खण्डन में अप्रार्थी विभाग ने आइ. एस. गुप्ता, अधिशासी अभियन्ता व एम.एल. रस्तोगी के शपथपत्र क्रमशः 2-3-1994 व 9-11-1994 को प्रस्तुत किये थे ।

8. दोनो पक्षकारों द्वारा एक-दूसरे पक्ष के साक्षी से प्रतिपरीक्षण किया गया है व प्रलेखीय साक्ष्य भी पेश की गयी है ।

9. माननीय उच्च न्यायालय से प्रकरण पुनः प्राप्त होने के पश्चात् अवसर दिए जाने के उपरान्त भी पक्षकारों द्वारा कोई नई साक्ष्य पेश नहीं की गयी है ।

10. दोनो पक्षों की बहस सुनी गयी ।

11. दोनो पक्षों के तर्कों पर विचार किया । अभिलेख पर उपलब्ध मौखिक एवम् प्रलेखीय साक्ष्य का ध्यानपूर्वक अवलोकन किया गया । मेरा निष्कर्ष निम्न प्रकार हैः—

12. सर्वप्रथम यह लिखना समीचीन होगा कि भारत सरकार के श्रम मंत्रालय, नई दिल्ली द्वारा औद्योगिक विवाद अधिनियम की धारा 10 के तहत प्रेषित प्रसंग के सन्दर्भ में इस अधिकरण को यह सुनिश्चित करना है कि क्या दैनिक वेतन भोगी बेलदार किशनलाल पुत्र भैरूदान (प्रार्थी श्रमिक) की सेवा को दिनांक 1-7-1986 से समाप्त किया जाना उचित एवम् वैद्य है ?

13. यह लिखना अत्यधिक सुसंगत व प्रार्थिक होगा कि प्रार्थी श्रमिक किशनलाल ने इस अधिकरण में दिनांक 1-7-1986 से स्वयं की सेवा समाप्त किए जाने की वैधता का कोई statement of claim प्रस्तुत नहीं किया है । दूसरे शब्दों में terms of reference में उल्लेखित दिनांक 1-7-86 को कोई statement of claim इस अधिकरण के समक्ष नहीं है ।

14. प्रार्थी श्रमिक द्वारा इस अधिकरण में दिनांक 30-9-1986 से स्वयं की सेवा समाप्त किए जाने की वैधता के सम्बन्ध में statement of claim प्रस्तुत किया गया है ।

15. इस अधिकरण के समक्ष प्रार्थी श्रमिक किशनलाल की दिनांक 30-9-1986 से सेवा समाप्त किए जाने की वैधता का कोई reference नहीं है ।

16. यह लिखना अत्यधिक सुसंगत है कि प्रार्थी श्रमिक ने केन्द्रीय लोक निर्माण विभाग बीकानेर के अधिशासी अभियन्ता द्वारा दिनांक 1-7-86 से स्वयं की सेवा समाप्त किए जाने की कोई साक्ष्य प्रस्तुत नहीं की है ।

17. इस अधिनिर्णय के पैरा संख्या 13 से 15 में किए गए विवेचन से यह सुस्पष्ट हो जाता है कि प्रार्थी श्रमिक ने जिस दिनांक

30-9-1986 से स्वयं की सेवा समाप्त किए जाने की वैधता का statement of claim प्रस्तुत किया है, उस दिनांक 30-9-1986 का इस अधिकरण के समक्ष कोई reference नहीं है तथा जिस दिनांक 1-7-86 से प्रार्थी सेवा समाप्त किए जाने की वैधता का reference इस अधिकरण के समक्ष है, उस दिनांक 1-7-86 को कोई statement of claim प्रार्थी श्रमिक ने इस अधिकरण में प्रस्तुत नहीं किया है। लिहाजा यह भलीभांति प्रमाणित हो जाता है कि प्रार्थी श्रमिक किशनलाल ने terms of reference से beyond जाकर statement of claim प्रस्तुत किया है। फलतः इस आशय के विधिक बिन्दु (legal Point) पर विचार किया जाना परम आवश्यक हो जाता है कि क्या इस अधिकरण को terms of reference से beyond जाने का अधिकार है ?

18. निम्न न्यायिक दृष्टान्तों में माननीय सर्वोच्च न्यायालय द्वारा एक स्वर में इस आशय का स्पष्ट मत व्यक्त किया गया है कि श्रम न्यायालय एवम् औद्योगिक विवाद अधिकरण को terms of reference से beyond जाने का कोई अधिकार नहीं है:-

(A) *Bombay Gas Company Ltd. Vs. Gopal Bhiva & ors.* AIR 1964 SC 752

(B) *Hochtief Gammon Vs. Industrial Tribunal*, AIR 1964 SC 1746

(C) *Pottery Mazdoor Panchayat Vs. The Perfect Pottery Co. Ltd. & Anr.* AIR 1979 SC 1356

(D) *Madangopal Singh Vs. State of U.P. & Ors.* AIR 2000 SC 537

19. उक्त न्यायिक दृष्टान्तों में माननीय उच्चतम न्यायालय द्वारा प्रतिपादित सिद्धान्त का अवलम्ब लेते हुए विनिर्णय *Suresh Chandra Vs. General Manager, Raj State Bridge & Construction Corporation* 2002 (3) Western Law Cases (Raj.) 67 में माननीय राजस्थान उच्च न्यायालय द्वारा दी गई निम्न observations अत्यधिक सुसंगत व महत्वपूर्ण हैं:-

“.....I reach the inescapable conclusion that the Labour Court lacks competence to correct/modify/amend/alter the terms of the reference or correct the name or the date of termination etc. and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference.”

[See para 15 of the judgment]

[Emphasis is mine]

20. जब इस अधिनिर्णय के पैरा संख्या 18 व 19 में उल्लेखित न्यायिक दृष्टान्तों में माननीय सर्वोच्च न्यायालय तथा माननीय राजस्थान उच्च न्यायालय द्वारा प्रतिपादित सुस्पष्ट विधिक सिद्धान्त के अनुसार इस अधिकरण को terms of reference के beyond जाने का कोई अधिकार नहीं है, तब यह भलीभांति प्रमाणित हो जाता है कि terms of reference के beyond जाकर प्रस्तुत किए गए statement of claim में उल्लेखित दिनांक 30-9-86 से प्रार्थी की सेवा समाप्ति की

वैधता के बारे में विचार किए जाने का इस अधिकरण को कोई अधिकार नहीं है।

21. एतमिनपूर्व किए गए विवेचन के प्रकाश में भारत सरकार द्वारा प्रेषित विचाराधीन प्रसंग को उत्तरित करते हुए निम्न पंचाट पारित किया जाता है :-

पंचाट

22. श्रम विभाग, भारत सरकार द्वारा प्रेषित विचाराधीन प्रसंग के सम्बन्ध में प्रार्थी श्रमिक किशनलाल ने दिनांक 1-7-86 से स्वयं की सेवा समाप्त किए जाने की वैधता को सुनिश्चित किए जाने का कोई statement of claim इस अधिकरण के समक्ष पेश नहीं किया है तथा दिनांक 1-7-86 से सेवा समाप्त किए जाने के सम्बन्ध में कोई साश्य भी पेश नहीं की है। अतः अप्रार्थी नियोजक- Executive Engineer, Central Division, C.P.W.D., Bikaner द्वारा दिनांक 1-7-86 से प्रार्थी श्रमिक किशनलाल की सेवा समाप्त किए जाने की legality & justification के बारे में कोई भत व्यक्त किया जाना संभव नहीं है।

23. अधिनिर्णय आज दिनांक 22-11-2010 को विष्ट न्यायालय में सुनाया गया।

ओम प्रकाश गुप्ता, न्यायाधीश

नई दिल्ली, 31 मई, 2011

का.आ. 1718.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की भारा 17 के अनुसार में, केन्द्रीय सरकार कलकत्ता टेलीफोन्स के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कोलकत्ता के पंचाट (संदर्भ संख्या 15/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-40012/104/95-आई आर (डीय)]

जोहन तोप्नो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.15/96) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Calcutta Telephones and their workmen, which was received by the Central Government on 31-5-2011.

[No. L-40012/104/95-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT KOLKATA

Reference No. 15 of 1996

PARTIES: Employers in relation to the management of
Telecom

AND

Their workmen.

PRESENT: JUSTICE MANIK MOHAN SARKAR,

Presiding Officer

APPEARANCE:

On behalf of the Management : Mr. T. Chowdhury,
Ld. Advocate.On behalf of the Workman : Mr. D. N. Chattopadhyay,
Ld. Advocate.

State: West Bengal.

Industry: Telecom.

Dated: 25th May, 2011

AWARD

By Order No. L-40012/104/95-IR(DU) dated 30-05-1996 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Calcutta Telephone in terminating the services of Shri Ramchet Rajbhar is legal and justified? If not, to what relief the workman is entitled to?”

2. The workman's case in his written statement of claim is that he was appointed as a casual labour in Exchange 31/32 (Burrabazar) on 1-3-1989 under the J.T.O. BZ/External-East II in the sub-division of BZ East II and worked there continuously till 12-01-1991 but on and from 13-1-1991 he was not given with any work on the plea that he had instruction to retrench the petitioner workman for an indefinite period. The workman then approached SDOP/ BZ East II from time to time and on all occasions he was verbally assured for work shortly and in this way two years period was covered without any offer of job to the workman. The workman alleged that he was not issued with any notice of termination, pay and compensation at the time of his retrenchment on 12-1-1991 though he worked for more than 240 days during that period. The workman claimed that he was issued with a certificate by the S.D.O.P. DE (East II) on 2-6-1995 certifying him to work for more than 240 days during the period from March, 1989 to February, 1990 and was allowed to continue till January, 1991 and thereafter he was verbally terminated. But the workman claimed that the recording in the certificate that the workman left the job

out of his own accord was not correct and was disputed seriously. After his termination, workman took up the matter with the Chief General Manager, Calcutta Telephones by his letter dated 24-12-1992 and since he received no reply thereto the workman raised industrial dispute before the Labour Commissioner (Central), Kolkata and the conciliation proceeding there having failed, the matter was referred to the Ministry of Labour, Government of India which in turn referred this matter before this Tribunal and the workman claimed that his termination being illegal having non-compliance of provision under Section 25F, he should be reinstated with all back wages.

3. Management side filed a written statement against the claim of the workman and therein it has been submitted that the reference being under Section 2K amongst others suffers inherent defect and cannot be adjudicated and it is claimed that the casual mazdoors are not employed creating employer-employee relation in between the parties, this reference is also not maintainable as the workman was only engaged as casual mazdoor. The competency of the reference also has been challenged by the management side by referring to the schedule of the reference having no mention of the date of termination. It is further submitted that since the workman has left the job on his own, alleged termination has never taken place and the reference is incompetent to be taken up for adjudication in that context too having no industrial dispute. The management side claimed that the workman's working with the management during the period 1-3-1989 to 12-3-1991 was never continuous one since he worked with several breaks during his tenure of work. It is further submitted that since the date of termination is the basic criteria for computing the period backward from the said date with a period of 12 calendar months preceding for a period of work of 240 days, the non-mentioning of the said date of termination makes the reference incomplete and however, the management has claimed that during that period, the workman worked only for 145 days as per statement of the workman in his written statement and according to the table given by the management, the workman concerned for 190 days only within February, 1990 which was never the working days of 240 days or more continuously and the said 190 days work also involved with several breaks. The certificate alleged to have been issued in favour of the workman by an officer of the management, has been claimed to be incorrect, erroneous, untenable in view of the prevailing entries appearing in the Government records relating to the engagement of the workman concerned for the entire period from March, 1989 to January, 1991 and the contents of the said certificate about the number of days of engagement of the workman was also claimed to be incorrect in entirety and wholly misleading and erroneous by the management. The workman claiming to have written to the authorities of the management through applications specifically one dated 25-4-1995, has also been denied by the management. Management claimed that since the workman concerned left the job on his own accord, no

question of his termination was needed causing issue of notice and payment of pay and compensation.

4. A rejoinder has been filed by the workman concerned with para-wise denial of the statement made by the management in their written statement of reply and also by way of repetition of the statement of the workman concerned in his own written statement of claim.

5. So, the whole matter relates to the allegation of termination with effect from 13-01-1991. It is fact that the schedule of reference has not mentioned the date of termination and it creates a defect in the schedule of the reference or the issue before this Tribunal without any doubt, since the eligibility point of the workman cannot be considered if such date of termination is not mentioned. Section 25F of the Industrial Disputes Act, 1947 provides that if a person has worked for a year (the period has been well-explained in Section 25B of the Act) or 240 days, he is entitled to notice, pay and compensation before the order of termination. According to the workman concerned (though it is denied by the management) he was verbally terminated and no letter of termination was issued against him. The consideration of the present matter is totally dependant on the point as to whether the workman concerned worked for 240 days on the date of termination and if so, whether he is entitled to notice, pay and compensation and if there is any such non-compliance, whether the workman concerned is entitled to get reinstatement with back wages as prayed for.

6. In respect of the non-mentioning of the date of termination in the schedule of the reference, the matter does not go out totally since both the parties in their written statement have admitted that the workman concerned worked up to 12-01-1991 and since 13-01-1991 he was out of job and so the 13-01-1991 may be treated as the date of termination in reference to the present dispute. Firstly, it is to be seen whether the workman concerned worked for 240 days or more. In this regard the workman concerned relied upon the certificate issued by an officer of the management which has been made Ext. W-01 in the present reference. The management side, on the other hand, claimed that the workman concerned worked for 190 days during the said period on 12 calendar months preceding the date of his out of service from 13-01-1991. The workman concerned claimed that if the said certificate is taken into consideration, he worked for more than 240 days preceding the date of his alleged termination. In support of their claim the management side produced different kinds of papers which are Exts. M-01 to M-01/22. The relied document of the workman side being Ext. W-01 goes to show that on the date of termination, the workman concerned worked for only 144 days in preceding 12 calendar months, if the management version is taken for consideration of the number of days of work only for the period of 12 calendar months just preceding the date of termination. If the workman is allowed to rely upon the said document of number of days he worked, it is found that the working for

12 calendar months prior to the said date of termination never is calculated to be 240 days of work or more.

7. Further, Ext. W-01, in the last paragraph it is found that the officer issuing such certificate has stated that the workman concerned left his duty from 13 day of January, 1991 on his own accord. Here, it is found that the workman side, let by Mr. Chattopadhyay, Ld. Advocate that the workman concerned has denied that he never left the job on his own accord and such mention in the certificate was made intentionally with an intention for retrenchment of the workman concerned without any mandatory liability as per provision of Section 25F of the Act. I am unable to accept such a submission of the workman concerned since if the workman wants to rely upon Ext. W-01, he is to rely in its entirety and he cannot express his choice of accepting portion thereof and dispute the other contents as being illegal and of having ill purpose for such mentioning in the certificate of the grantor. Further, this Ext. W-01 has been produced by the workman from his custody.

8. Now the question comes whether the abandonment of job or the workman's leaving the job on his own accord, may be treated as retrenchment of the workman concerned from his job. The word "retrenchment" is very much expressive with the meaning to terminate a person from any engagement. Such act of termination originates from the person who employs or engages a person for any job and if such termination does not originate from the side of the engager or employer, the person who claims termination or retrenchment cannot claim the benefits as provided in law under Section 25F of the Act. In respect of the allegation of abandonment of work by the workman, Mr. Chattopadhyay, Ld. Advocate for the workman relied upon some decisions reported in AIR 1964 SC 1272/1963(2) LLJ 638 (Buckingham & Carnatic Co. Ltd. v. Venkatiah & Anr.) and 1979-I-LLJ(SC) 257 (G.T. Lad & Ors. v. Chemicals and Fibres of India) and by referring those two decisions Mr. Chattopadhyay claimed that abandonment by a workman is always a question of fact and the employer cannot convert the absence of the workman into abandonment of employment. But, here that is not the case with the workman concerned since he was not absent without taking leave or otherwise but it was a case of stoppage of work by the workman concerned and such stoppage as claimed by the workman, was initiated from the side of the management by offering no job to him on and from 13-01-1991. But the management concerned claimed that the said stoppage of work by the workman was resulted from his voluntary absence from the work on and from 13-01-1991. In this regard, the Ld. Advocate for the workman concerned tried to submit by referring to the workman's claim that he repeatedly made representations to the higher authorities of the management for the purpose of his job and claimed that such act on the part of the workman never creates a situation that he himself left the job. But the workman concerned referred to Ext. W-02 which is a letter alleged to have been written by the workman

concerned to the Chief General Manager on 24-12-1992. On going through the same it is found that the workman concerned has insisted for payment of compensation and other mandatory obligation as per Section 25F of the Act claiming that he completed 240 days of work on the date of termination concerned, though in the concluding part of the said letter he has stated that he should be reinstated with full back wages for non-compliance of the mandatory provision by the employer at the time of his alleged termination.

9. In respect of contents of Ext. W-01, the said certificate is found to have been issued in the year 1995 and it is stated to have been issued on the request of the workman concerned. The plea of the workman that the said statement in the certificate at the ending part about his leaving the job on his own accord was for creation of a ground for retrenchment cannot be accepted since the certificate was issued long after the discontinuation of employment of the workman with the management concerned.

10. Abandonment from service does not entitle a workman to reinstatement and back wages. It has been held by the Hon'ble Apex Court in a decision reported in (1974) 3 S.C.C. 152 (Binny Ltd. v. Workmen) that in other words if the termination of service of the workman is not by the employer but caused by the workman himself by resigning or abandoning the job, such termination will not fall within the ambit of definition of retrenchment, because such termination of service was not caused by the employer. Such view was also taken in a case reported in 1981-II-LJ 376 (MP) (DB) (Shambhoo Singh v. Central Industrial Tribunal-cum-labour Court, Jabalpur).

11. In respect of maintainability of the present reference as raised from the side of the employer management, it is found that besides mentioning the question of maintainability in its written statement of reply, management side also filed a separate application to that effect on 23-12-1996 and prayed for a separate disposal of the matter on the question of maintainability as a preliminary point and over the said application, by an order dated 21-01-1998 this Tribunal passed an order of cancelling the said prayer for deciding the question of maintainability as a preliminary point in view of some recent decision of the Hon'ble Supreme Court during that period as it appears from the said order and the said order was not challenged by the employer and so the said disposal on the question of maintainability has reached its finality and it cannot be reopened.

12. In compilation of all the discussions made in the above paragraphs, I am of the view that the workman concerned failed to prove that actually he was retrenched or his service was terminated by the management of Calcutta Telephones as alleged. Since it is observed in the above paragraphs that the workman concerned abandoned

the work on his own accord, question of his termination by the management of Calcutta Telephones does not occur and so the issue raised about the legality or justifiability of termination of service of the workman concerned by the management, does not arise. Incidentally the workman concerned is not entitled to any relief.

An Award is passed accordingly.

Kolkata, Dated,
The 25th May, 2011.

JUSTICE MANIK MOHAN SARKAR, Presiding Officer

नई दिल्ली, 31 मई, 2011

का.आ. 1719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 109/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-40012/82/2001-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.109/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 31-5-2011.

[No. L-40012/82/2001-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

Dr. MANJUNIGAM, PRESIDING OFFICER

I.D. No. 109/2001

Ref. No. I-40012/82/2001-IR (DU) dated 27-06-2001

BETWEEN

Shri Ram Baran Yadav S/o Sh. Baldev Prasad
R/o Pure Medai (Raghunath Pur Kataili)
PO - Bhadokhar, Distt. - Raebareli

AND

1. The General Manager
Telecom Deptt.
O/o General Manager
Gandhi Bhawan
Lucknow (U.P.)- 226001

2. The Telecom District Engineer
O/o the Telecom District Manager,
Raebareli (Distt.) - 229 001.

AWARD

1. By Order No. L-40012/82/2001-IR(DU) dated: 27-06-2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Ram Baran Yadav S/o Sh. Baldev Prasad, R/o Pure Medai (Raghunath Pur Kataili), O-Bhadokhar, Distt.- Raebareli and the General Manager, Telecom Deptt., O/o General Manager, Gandhi Bhawan, Lucknow (U.P.) and the Telecom District Engineer, O/o the Telecom District Manager, Raebareli (Distt.) for adjudication.

2. The reference under adjudication is:

"WHETHER THE ACTION OF THE MANAGEMENT OF TELECOM, LUCKNOW IN TERMINATING THE SERVICES OF SH. RAM BARAN YADAV VIDE ORDER DATED 5-02-1999 WAS LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF THE WORKMAN IS ENTITLED TO?"

3. The case of the workman, Ram Baran, in brief, is that he was employed under Divisional Engineer, Telecom, Raibareli on the post of security guard on 15-12-1996 without any appointment letter and worked as such till 5-02-1999 when his services has been terminated without any notice or retrenchment compensation in violation to the provisions contained in Section 25F of the Industrial Disputes Act, 1947 in spite of the fact he worked for more than 750 days in total and for more than 240 days in the year preceding his termination. It is submitted by the workman that during his service period he put his attendance on the attendance register and was paid on Muster Roll Sheet and also that he was never given any proof regarding salary. It has been alleged by the workman that the management retained workmen junior to him as employed some other new persons also in violation to the provisions contained in Section 25G & H of the Act. Accordingly, the workman has prayed that his termination order be set aside and he be reinstated with consequential benefits including back wages.

4. The opposite party has filed its written statement, denying the claim of the workman; wherein it has submitted that the workman was never engaged by it, as such, there

arise no question of termination or violation of any of the provisions of I.D. Act. Moreover, it has submitted that the workman was the employee of M/s. Security and Protection Services, Varanasi. It has been submitted by the management that the workman never received any payment towards salary from the department directly; rather the management, as per terms of the contract, had always paid for the watch and ward services rendered by M/s. Security and Protection Services, Varanasi and in no point of time any payment was made to the workman by the management in lieu of his any services. The management has specifically submitted that the workman was admittedly deployed by the M/s. Security and Protection Services, Varanasi as one of its several watchman, which did not create any lien in favour of the workman against the management, furthermore, the contract in between the management and M/s. Security and Protection Services, Varanasi came to an end on 5-03-99. Accordingly, the management has prayed that the claim of the workman be rejected without any relief to him.

4. The workman has filed its rejoinder; wherein he has not brought any new fact apart from reiterating the averments already made by him in his statement of claim.

5. The workman has not filed any documentary evidence in support of his claim whereas the management filed copy of letter of M/s. Security and Protection Services, Varanasi and copy of contract between the management and M/s. Security and Protection Services, Varanasi.

6. The workman was given opportunity for its evidence on 17-07-2003; but the workman sought adjournment on the said date. Thereafter, several dates were fixed, providing several opportunities for filing workman's evidence, but the workman failed to do so. When the workman did not turn to adduce its evidence the case was ordered to proceed ex parte against the workman on 16-08-2007 and next date was fixed for management's evidence and when the opposite party too did not turn up the case was ordered to proceed ex parte against the management also vide order dated 11-09-2009; and 13-10-2009 was fixed for arguments. The parties refrained to take part in proceedings on 13-10-2009, 16-12-2009, 23-04-2010, 16-06-2010, 30-07-2010, 10-10-2010, 24-11-2010, 30-12-2010, 5-04-2011 and 3-5-2011; and accordingly, the case was reserved for award.

7. It was the case of the workman that he has been employed as security guard on 15-12-1996 and worked as such till 5-02-1999 when his services has been terminated without any notice or retrenchment compensation in violation to the provisions contained in Section 25F of the Industrial Disputes Act, 1947 in spite of the fact he worked for more than 750 days in total and for more than 240 days in the year preceding his termination. Also, he has neither been given any appointment nor any termination letter and

that he put his attendance on the attendance register and was paid on Muster Roll Sheet and also that he was never given any proof regarding salary. The workman has neither filed any documentary proof nor has entered the witness box to substantiate his version.

8. Per contra, the management of the bank has disputed the claim of the workman and has submitted that the workman was the employee of M/s. Security and Protection Services, Varanasi and as per terms of the contract, had always paid for the watch and ward services rendered by M/s. Security and Protection Services, Varanasi and in no point of time any payment was made to the workman by the management in lieu of his any services. The contract between management and M/s. Security and Protection Services, Varanasi expired on 05-03-1999. The management has filed photocopy of as many as two documents to support its version; but has not entered the witness box to adduce any oral evidence.

9. I have scanned entire, evidence on record.

10. It is well settled that if a party challenges the legality of order, the burden lies upon him to prove illegality of the order and if no evidence is produced by the party invoking jurisdiction of the court, the claim must fail. In the present case burden was on the workman to set out the grounds to challenge the validity of the termination order and to prove the termination order was illegal. It was the case of the workman that he had worked for more than 240 days in the year concerned. This claim has been denied by the management; therefore, it was for the workman to lead evidence to show that he had in fact worked up to 240 days in the year preceding his alleged termination. In 2006 (108) FLR R.M. Yellatti & Asstt. Executive Engineer Hon'ble Apex Court has observed as under:

“It is clear that the provisions of the evidence Act in terms do not apply to the proceedings under Section 10 of the Industrial Disputes Act. However, applying general principles and on reading the aforesaid judgments we find that this Court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary.

In the present case the workman has submitted in his statement of claim that he has worked continuously for 240 days in the year preceding his termination, but has not produced any document either photocopy or original in support of his claim nor has entered the witness box to substantiate his stand. Merely pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work for 240 days in a year was on the workman but he has failed to discharge the above burden. There is

no reliable material for recording findings that the workman had worked more than 240 days in the preceding year from the date of his alleged termination and the alleged unjust or illegal order of termination was passed by the management.

12. Accordingly, the reference is adjudicated against the workman Ram Baran Yadav; and I come to the conclusion that he is not entitled to any relief.

13. Award as above.

LUCKNOW.

16-05-2011

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 31 मई, 2011

का.आ. 1720.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल सिल्क बोर्ड के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 323/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-42011/34/99-आई आर (डी.यू.)]

जोहन तोपनो, अधर सचिव

New Delhi, the 31st May, 2011

S.O. 1720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/323/99) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Silk Board and their workman, which was received by the Central Government on 31-5-2011.

[No. L-42011/34/99-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/323/99

PRESIDING OFFICER: SHRI MOHD. SHAKIR HASAN

The General Secretary,

Bastar Kosa Mazdoor Sangh (HMS),

D.S. Colony,

Kirandul,

Distt. Dantewara (MP)

...Workman

versus

The Director,
National Silkworm Seed Project,
Central Silk Board,
CSB-Complex, IVth Floor,
Hosur Road, Madivala,
Bangalore.

...Management**AWARD**

Passed on this 11th day of May, 2011

1. The Government of India, Ministry of Labour vide its Notification No.L-42011/34/99/IR (DU) dated 27-10-99 has referred the following dispute for adjudication by this tribunal:-

"Whether the action of the management of Central Silk Board, P-2, Seed Farm, Bademarenga, Jagdalpur in terminating the services of Shri Bhikari Ram and 9 other workers is legal and justified? If not, to what relief they are entitled ?"

2. The case of the Union/workman in short is that the workman was working as Labourer at P2 Basic Seed Farm (Kosa Centre), Bademarange since 1991. On 21-12-96, the management without any notice had changed the status of the workman as Time Scale Farm Worker (in short TSFW). It is stated that on 15-4-99 without any notice terminated their services and transferred the unit to M.P at Sericulture, Bhopal. Other employees namely Rukhsana Begum, Tahir Hussain and Lekhu Ram were transferred to different places. It is stated that the unit has not yet closed and it was not transferred. On these grounds, it is submitted that the termination order be set aside.

3. The management appeared and filed Written Statement to contest the reference. The case of the management, interalia is that the applicants/workmen were engaged as Casual Labourers in a Project and no sub units under P2 BSF, Bademaranga was working at any place. The casual labours were converted into TSFW w.e.f. 21-12-96 and were informed accordingly. The excess wages paid to the workers erroneously were recovered from monthly wages. The workers had not protested at any time of the same. It is stated that the workers were retrenched from the service in accordance with the Industrial Dispute Act, 1947 (in short ID Act, 1947) in the result of closure of the project and the entire plant and machinery were transferred to MP. The workers were offered one month notice period wages, retrenchment compensation and service Gratuity on the day of retrenchment i.e. on 15-4-99 in accordance with the provision of Section 25 (F) of the Act, 1947. Out of 12 workers only two workers received the aforesaid amount and others had refused to receive the amount. Thereafter the same were sent by registered letter with A/D to their respective home address. Out of them two received the registered letter and rest eight refused to receive the same. It is stated that undisbursed amount is lying with Deputy Director, RTRS, Jagdalpur. The further case is that the Commissioner of Sericulture (MP) also proposed to provide

to all 12 retrenched workers native livelihood by offering usufruct ownership rights on Mulberry Plantation per person in the Silk Farm for self employment. The workers did not accept the alternative offer of self employment. It is stated that the case of Rukhsana Begum and others were on different footing. They were regular employees of the Central Silk Board and therefore they had been transferred accordingly on closure of the unit. It is submitted that the action of the management is justified.

4. On the basis of the pleadings of the parties, the following issues are for adjudication—

I. Whether the action of the management in terminating the services of the 10 workers is legal and justified ?

II. To what relief, the workman is entitled?

5. The Union/workers appeared in the case and filed their statement of claim but thereafter they became absent. Lastly the then Tribunal proceeded the reference exparte against the Union/workman on 13-4-2007.

6. Issue No. I

To prove the case, the management has adduced oral and documentary evidence. The management witness Shri Sunil Kumar Mishra was Asstt. Director. He has stated that the applicants/workers were casual labourers in the Project and on completion of the project, the plant and machinery were transferred to M.P. The compensation, gratuity and one month salary were received by the workers. Except Mchlai Ram, other had received their amounts. He has further stated that the Commissioner, Sericulture Bhopal had offered them money and one acre land for plantation of Mulberry as self employment but they refused the same. His evidence is unrebuted. There is no reason to disbelieve his evidence. His evidence shows that the provision of Section 25 F of the Act, 1947 was followed at the time of retrenchment. Moreover alternative employment was also offered.

7. The management has filed the cash vouchers which are marked as Exhibit M/1 to M/1/3. These vouchers are filed to show that most of the workers received their retrenchment compensation, one month pay of the notice and gratuity amounts. This clearly shows that on closure of the unit, they had been given one month salary in lieu of notice and the retrenchment compensation. Moreover alternative self employment was also offered by the management but the same was refused. I find that the action of the management in terminating their services was justified. This issue is decided in favour of the management.

8. Issue No. II

On the basis of the discussion made above, I find that the Union/workers are not entitled to any relief. Accordingly the reference is answered.

9. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 31 मई, 2011

का.आ. 1721.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑर्डनेन्स फैक्ट्री के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 147/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-14011/18/2001-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/147/2001) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Ordnance Factory and their workman, which was received by the Central Government on 31-5-2011.

[No. L-14011/18/2001-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/147/2001

PRESIDING OFFICER: SHRI MOHD.SHAKIR HASAN

Shri Ramshir,
T. No. F-6, O.F.K.,
R/o Chandmari Talaiya,
Near Khermai Mandir,
Lalmati, Kasturba Nagar
Jabalpur

...Workman

Versus

General Manager,
Ordnance Factory,
Khamaria,
Jabalpur

...Management

AWARD

Passed on this 13th day of May 2011

1. The Government of India, Ministry of Labour vide its Notification No.L-14011/18/2001-IR (DU) dated 31-8-2001 has referred the following dispute for adjudication by this tribunal:-

“whether the action of the management of Ordnance Factory, Khamaria, Jabalpur in imposing the punishment of compulsory retirement vide order dated 22-8-2000 of Shri Ramshir, Token No.F-6 against the chargesheet No. 1925/VLC/199 dated 15-9-99 is justified. If not, to what relief the workman is entitled to?”

2. The case of the workman, in short is that the workman Shri Ramshir was charge sheeted for false and vague allegation for victimizing him. He had not been given reasonable opportunity to defend himself. The Enquiry Officer acted as a Prosecutor and was biased. Disciplinary Authority without application of mind awarded extreme punishment of compulsory retirement. The same is shockingly disproportionate. The findings of the Enquiry Officer were perverse. The appellate authority did not consider his appeal. It is stated that he was Ex-Army person and had facility of Military canteen. The officers wanted to take the benefit through him which he had not obliged them as a result he was victimized. It is stated that earlier also he was reinstated by the order of the CGIT. The workman challenged the part order of the CGIT before the Hon'ble High Court in W.P.No. 3462/95 whereby the part portion of the order of CGIT was set-aside. The management became annoyed and victimized him by passing the order of compulsory retirement. On these grounds, the order of punishment be set aside and the workman be reinstated with back wages.

3. The management appeared and filed Written Statement in the reference case. The case of the management, interalia, is that the workman was charge sheeted on complaint from Works Manager/F-2 for committing misconduct. On his denial, the departmental proceeding was initiated. After enquiry, the enquiry report was served on him. It is stated that the principle of natural justice was followed and proper opportunity was given to the workman to defend himself. The Disciplinary Authority found the workman guilty of the charges on the basis of the materials on record and imposed the punishment of compulsory retirement from service w.e.f. 22-8-2000. It is stated that the workman was habitual offender and was punished on several occasions earlier. On these grounds, it is submitted that the reference be answered in favour of the management.

4. On the basis of the pleadings, the following issues are framed-

I. Whether the departmental enquiry conducted by the management against the workman is legal and justified?

II. Whether the action of the management in imposing the punishment of compulsory retirement is legal or justified?

III. Whether the punishment imposed on the workman is excessiv-^o

IV. To what relief, if any, the workman is entitled?

5. Issue No. I

This issue is taken up as a preliminary issue. After considering the evidence on record, it is found that the departmental enquiry conducted by the management against the workman is legal and valid vide order dated 25-1-2010. Thus this issue is already decided earlier.

6. Issue No. II & III

The learned counsel for the workman has raised objection about the propriety of the finding of the Enquiry Officer. It is stated that the findings were perverse and there was no sufficient evidence to prove the charges and the punishment is disproportionate. It is further submitted that the Tribunal has jurisdiction to examine the propriety of the findings of the Enquiry Officer under the provision of Section 11A of the Industrial Dispute Act, 1947. On the other hand, the learned counsel submitted that this is not a case of dismissal or discharge of the workman wherein Section 11A of the Act, 1947 has provided for considering the propriety of the findings of the workman. Moreover he was habitual offender and had earlier confessed his guilt but did not improve his conduct. However it is submitted that there were sufficient evidences before the Enquiry Officer for establishing the charges and the punishment of compulsory retirement is just and proper.

7. No fresh evidence is examined by either of the parties on the point of misconduct. Now let us examine the evidence adduced before the Enquiry Officer. The chargesheet indicates that there were five charges against him. The first charge was of misbehavior and using of un-parliamentary languages to the superiors. Secondly he refused to do his allotted official work. Thirdly he absented unauthorisedly from the working place during working hours. Fourthly he committed mischief by taking out token of other employee from the token board and lastly he was involved in similar offence in past and was penalized earlier.

8. The papers of enquiry proceeding show that the management had examined three witnesses Shri K.A. Ansari, Shri R.C. Shukla and Shri D.N. Dutta before the Enquiry Officer. Two other witnesses namely Shri Bhola Nath and Shri Ram Prasad were examined at the instance of the delinquent workman. The delinquent workman was himself examined in defence. Before examining the evidence adduced before the Enquiry Officer, it is not out of place to say that the materials brought on the record by the Enquiry Officer fall for re-appreciation by the Tribunal and as such the Tribunal should be very cautious to interfere therewith. The Enquiry Officer also acts as quasi judicial body.

9. In the light of above circumstances, let the evidence be examined to determine the point for consideration. The management has filed original departmental enquiry papers. The first witness was Shri K.A. Ansari. He was chargeman-II/F3. He made complaint against the delinquent workman. The said complaint is also filed. His evidence clearly shows that he supported the charges of misbehavior, disobedience and removing of token of others. He has stated that when Ramshir abused him, he was alone but on alarm two persons namely Shri Ramprasad and Shri Bhola came. These two persons had been examined in the case. The evidence of Shri Ansari clearly shows that he had supported the case of the management and other two persons came after the alleged misbehavior. There is nothing in his evidence to disbelieve this witness rather he had supported all the charges against him. He appears to be competent person as he was in the said section. Another witness Shri D.N. Datta (A/F/F3) was also working in the same section. He had stated in his evidence that he had repeatedly received complaint of removal of token from the token board. Then he was watching the Token Board from a distance. He saw that the delinquent workman (F3/22) came and took out the token of Naval Singh (F 3/2). When Naval Singh came, he made complaint about his token. He told him to go to cycle stand where the delinquent workman had gone. He has stated that when he asked from F 3/2, he told him that the delinquent workman gave his token in the morning. Naval Singh had also made complaint in writing. The said complaint is also on the record which corroborates the evidence of the witness. Shri D.N. Datta was cross-examined by the Defence Representative but there is nothing to disbelieve his evidence. His evidence establishes the charge of removing of token of others from Token Board who happens to be eye witness of the occurrence.

10. Another management witness Shri R.C. Shukla was also working in the same section. He has supported the fact that the delinquent workman did not do his allotted work properly and he reported to his senior verbally. Another witnesses Shri Bhola Nath and Shri Ram Prasad were examined by the management at the instance of the workman. The evidence of Shri K.A. Ansari shows that they came at the place of occurrence after the occurrence. The learned counsel for the workman submits that they had not seen any dispute nor heard about it. It is submitted that this shows that no occurrence took place. These witnesses admittedly did work in another section. Secondly the evidence of Shri K.A. Ansari shows that they came after occurrence and he was alone while the workman misbehaved him. Thus it is clear that these two witnesses were not competent to say about occurrence. Thus the evidence adduced before the Enquiry Officer shows that there are sufficient evidence to prove the charges against the workman and the findings of the Enquiry Officer was not perverse.

11. The workman had taken a plea that he did not oblige the Superior by bringing goods from the Military Canteen as he was Ex-Armyman and therefore he was falsely implicated in the charges. The workman has not adduced either oral or documentary evidence except himself to establish that they had ever demanded from the workman to bring any good from the Military Canteen. His defence is not acceptable.

12. Another important point is that the punishment of compulsory retirement imposed on the workman was disproportionate to the charges proved against him. The learned counsel for the management has urged that prior to this proceeding the workman was dismissed and the workman was reinstated by the award dated 31-3-95 passed by this Tribunal in CGIT/LC/R/25 1/1993. The copy of the award is filed in the case. On perusal of the award, it is clear that the same type of charges were leveled against the workman in the said proceeding and the workman had admitted the charges but the then Tribunal found the punishment disproportionate to the charges committed under the peculiar circumstances and passed order of reinstatement. He had also made assurance to improve his behaviour. Thus it is clear that the punishment of compulsory retirement appears to be just and proper. I do not find any reason to interfere in the punishment order awarded by the management against the workman. Thus these issues are decided in favour of the management and against the workman.

13. Issue No. IV

On the basis of the discussion made above, I find that the workman is not entitled to any relief. The reference is accordingly answered.

14. In the result, the award is passed without any order to costs.

15. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 31 मई, 2011

का.आ. 1722.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरपर, में, केन्द्रीय सरकार जिओलॉजिकल सर्वे ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/84/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-42011/92/99-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/84/2000) of the Central Government Industrial Tribunal-cum-Labour Court Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Geological Survey of India and their workman, which was received by the Central Government on 31-5-2011.

[No. L-42011/92/99-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/84/2000

Date: 23-05-2011

Party No.1

(a) The Director (Drilling),
Coal Drilling Division,
Geological Survey of India,
Ratnagar Bldg., 6th floor,
4, Chowringi Lane,
Calcutta-700 016.

(b) The Driller-in-charge,
Unit No.132/332, G.S.I.,
Camp Warora
District: Chandrapur-442 907.

Versus

Party No.2

Shri Shrikant Gulab Kshirsagar,
C/o Ramesh Babu Tokariya,
Post: Tilak Ward,
Tahsil- Warora,
Dist. Chandrapur

AWARD

(Dated: 23rd May, 2011)

This reference has been made by the Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) (here-in-after referred to as "the Act" for adjudication of the industrial dispute between the employers in relation to the management of Geological Survey of India (in short "GSI") and their workman, Shri Shrikant Gulab Kshirsagar as per letter No.L-42011/92/99-IR (DU) dated 13-3-2000, with the following schedule:—

"Whether the action of the management of Director of (Drilling)Drilling-In-charge, Geological Survey of

India, Calcutta/Warora camp in not reinstating into the services with full wages of Sh. Shrikant Gulab Kshirsagar is legal and justified? If not, what relief the workman is entitled and which date?"

2. On receipt of the reference, the workman and the management of GSI were noticed to file the statement of claim and written statement respectively and accordingly the workman, Shri Shrikant Gulab Kshirsagar ("the workman" in short) filed the statement of claim and the Director (Drilling) GSI, Calcutta ("the Party No.1 (a)" in short) filed the written statement.

In his statement of claim, it is pleaded by the workman that he was working as a helper with the party no. 1 (a) under the director control and supervision of Party No.1 (b) and the Party no.1 (a) is an industry and he is a workman within the meaning and definition of Section 2.(j) and 2(s) of the Act and the GSI is engaged in various project activities in relation to mining survey of mineral and metals and providing expert guidance to coal india and their subsidiaries and others and the project activity at Warora Camp in Chandrapur district is one of such activities of the GSI and the same is functioning since last several years and the activities carry out are of permanent nature and the activities at Warora Camp are grouped in two departments survey and operation and the operation department is headed by Drilling in-Charge, a Class-I ranking officer and approximately 34 employees are working at Warora Camp, out of whom, only 15 are permanent employees and the rest are classified as daily wagers but monthly salary is paid @ Rs.1323 to such employees and he was appointed as a daily wager helper w.e.f. October, 97 and worked continuously without any break till 19-4-99, on which date, his services were terminated orally and he worked for sorting of samples, packing of samples for laboratory tests and loading and unloading of samples etc. as per the direction and satisfaction of the camp incharge and his subordinate officers and though the GSI is a government organization, it was paying meager wages, in breach of the government directives and the rules and regulations and the wages were also not paid on the fixed date of every month but sometimes the same was paid after a gap of one, two or three months through separate vouchers and the party No.1 (a) and (b) instead of making him permanent after completion of 240 days and not granting him the benefits of permanency, orally terminated his service whimsically and arbitrarily without any bonafied reason and without following the due procedure of law relation to termination or retrenchment and two new person namely, Sharad Ghuttar and Shri Prashant Dange were appointed w.e.f. 20-4-99 and others were also appointed thereafter and action of the Party No.1 (b) is arbitrary and breach of settled principles of law. The workman has prayed to hold the order of his termination from service as illegal and to

reinstate him in service with continuity and back wages and compensation.

3. The Party No.1 (a) in its written statement pleaded interalia that the workman had worked as a casual worker in the capacity of a helper in three phases and he was engaged on verbal contract as a unskilled labour and no letter appointment was given to him and payments were made on vouchers and he was engaged for carrying the rock samples in the field and for camp work, as and when his services were necessary and the GSI is a scientific department engaged in various types of exploration work under the department of mines and it is not an industry within the purview and meaning of the Act and 34 employees are not working at Warora Camp and the workman was engaged in the camp only to do various type of miscellaneous job of temporary nature and was paid wages on daily payment basis as per government rates and the workman did not work continuously from October, 97 till April, 99 and he worked in temporary capacity from January, 98 to February, 98, 26th March, 98 to July 98, and January, 98 to 19.4, 99 and he did not work from Oct, 1997, as alleged and the question of regularization of the workman does not arise as he did not satisfy the relevant rules laid down by the Department of Personnel and Training Government of India and there is a ban on fresh recruitment by the government in all cadres which is also applicable to it and for terminating the services of the casual worker, the was no need, whatsoever, to follow any legal procedure and such, when the services of the workman were no longer necessary, the same were terminated. The Party No. 1 (a) has not denied that Warora camp is still functioning and the casual workers had been engaged suddenly for few days, due to contingency and there was no irregularity in engaging two casual workers temporarily and the question of giving employment to several other junior helper is denied as no employment has been given to anybody and as the workman was a temporary daily wage employee and was not appointed to the post in accordance with the prescribed rules and his disengagement from service cannot be construed to be retrenchment and as such, the workman is not entitled for any relief.

4. It is necessary to mention here that from 27-7-2007 neither the Party no.1 (a) nor its advocate appeared in the case. As the Party No.1 (a) remained absent and no step was taken on its behalf, "no cross order" in respect of the cross-examination of the workman was passed and the reference proceeded ex parte against the Party No.1 (a) and (b).

5. The workman in his evidence which is on affidavit has reiterated the facts mentioned in the statement of claim Except the oral evidence, no other evidence has been adduced by the workman.

It is well settled that when the claim of the workman that he had worked for 240 days in a year preceding his termination is denied by the management, the onus lies upon the workman to show that he had in fact worked for 240 days in the year preceding his termination. It is also well settled that in absence of proof of receipt of salary or wages or record of appointment, filing of an affidavit by workman is not sufficient evidence to prove that he worked for 240 days in a year preceding his termination. [In this regard, the judgement of the Hon'ble Apex Court as reported in AIR 2002 SC - 1147 (Range Forest Officer Vs. S.T. Hadimani) and AIR 2005 SC - 2179 (Manager, RBI Vs. S. Mani) may kindly be referred to]

In this case, except the affidavit, the workman has not adduced any other evidence in support of his claim. However, in the written statement, the party No.1 (a) has admitted that the workman worked continuously from January, 98 to 19th April, 99. In view of such admission, it is held that the workman worked for more than 240 days in the preceding 12 calendar months, before the date of his termination and as such, the provisions of Section 25-F of the Act are applicable in this case and the order of termination of the workman can be held to be retrenchment from service. As the provisions of Section 25-F of the Act, which are mandatory in nature have not been complied with, before retrenchment of the service the workman, the retrenchment of the workman from service is held to be illegal.

6. It is necessary to mention here that the Hon'ble Apex Court in the decision reported in 2010 (8) Scale at pg. 583 (Incharge Officer and another Vs. Shankar Shetty) and in the decision reported in (2009) 15 SCC - 327 (Jagvir Singh Vs. Haryana State Agriculture Marketing Board) have held that "It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of the employee was found to be illegal, the relief reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that the relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of the employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee."

7. In this case, it is the admitted case that the workman was a daily wager and he was not a permanent employee and his appointment was not done in accordance with the rules of recruitment. So, applying the principles enunciated by the Hon'ble Apex Court, as mentioned in the above decisions, the workman is not entitled for reinstatement in service or back wages, but he is entitled to some compensation. In my considered view, monetary compensation of Rs. 10,000 in lieu of reinstatement shall be appropriate, just and equitable in this case. Hence, it is ordered:

ORDER

The action of the management of Director of (Drilling)/Drilling-In-charge, Geological Survey of India] Calcutta/Warora camp in not reinstating into the services with full back wages of Sh. Shrikant Gulab Kshirsagar is legal and justified. However, the workman, Shri Shrikant Gulab Kshirsagar is entitled for monetary compensation of Rs. 10,000 as the mandatory provisions of Section 25-F of the Act were not followed before termination of his service by the management. The party No.1 (a) and 1 (b) are directed to pay the monetary compensation of the Rs. 10,000 to the workman within one month from the date publication of the award in the official gazette. The workman is not entitled for any other relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 31 मई, 2011

का.आ. 1723.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जिओलॉजिकल सर्वे ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/85/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-42011/91/99-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/ NGP/85/2000) of the Central Government Industrial Tribunal cum Labour Court Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Geological Survey of India and their workman, which was received by the Central Government on 31-5-2011.

[No. L-42011/91/99-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER
CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/85/2000

Date: 23-05-2011

Party No.1

(a) The Director (Drilling),
Coal Drilling Division,
Geological Survey of India,
Ratnakar Bldg.,
5th floor, 4, Chowringi Lane,
Calcutta-700 016.

(b) The Driller-in-charge,
Unit No.132/332, G.S.I.,
Camp Warora,
District: Chandrapur-442 907.

Versus

Party No.2

Shri Vilas S/o Madhukar Khaire,
Navin Basti, Colliery Ward,
Warora, Tah. Warora,
Dist: Chandrapur.

AWARD

(Dated: 23rd May, 2011)

This reference has been made by the Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) (hereinafter referred to as "the Act" for adjudication of the industrial dispute between the employers in relation to the management of Geological Survey of India (in short "GSI") and their workman, Shri Vilas Madhukar Khaire as per letter No.L-42011/91/99-IR (DU) dated 13-3-2000, with the following schedule:—

"Whether the action of the management of Director of (Drilling)/Drilling-in-charge, Geological Survey of India, Calcutta/Warora camp in not reinstating into the services with full wages of Sh. Vilas Madhukar Khaire is legal and justified? If not, what relief the workman is entitled and which date?"

2. On receipt of the reference, the workman and the management of GSI were noticed to file the statement of claim and written statement respectively and accordingly the workman, Shri Vilas Madhukar Khaire ("the workman" in short) filed the statement of claim and the Director (Drilling) GSI, Calcutta and the Driller-in-Charge, Unit No.132/332, GSI Camp, Warora ("the Party No.1 (a) & I (b) respectively" in short) filed a joint written statement.

In his statement of claim, it is pleaded by the workman that he was working as a helper with the party no.1 (a), under the director control and supervision of

Party No.1 (b) and t party no.1 (b) is an industry and he is a workman, within the meaning and definition of Section 2 (j) and 2(s) of the Act and the GSI is engaged in various project activities in relation to mining survey of mineral and metals and providing expert guidance to Coal India and their subsidiaries and others and the project activity at Warora Camp in Chandrapur district is one of such activities of the GSI and the same is functioning since last several years and the activities carry out are of permanent nature and the activities at Warora Camp are grouped in two departments i.e. survey and operation and the operation department is headed by Drilling-in-Charge, a Class I ranking officer and approximately 34 employees are working at Warora Camp, out of whom, only 15 are permanent employees and the rest are classified as daily wagers, but monthly salary is paid @ Rs.1323 to such employees and he was appointed as a daily wager helper w.e.f. 18-11-1997 and worked continuously without any break till 22-4-1999, on which date, his services were terminated orally and he worked for sorting of samples, packing of samples for laboratory tests and loading and unloading of samples etc. as per the direction and satisfaction of the camp incharge and his subordinate officers and though the GSI is a government organization, was paying meager wages, in breach of the government directives and the rules and regulations and wages were also not being paid on the fixed date of every month but sometimes the same was paid after a gap of one, two or three months through separate vouchers and the party No.1(a) and (b) instead of making him permanent after completion of 240 days and not granting him the benefits of permanency, orally terminated his service whimsically and arbitrarily without any bonafied reason and without following the due procedure law, in relation to termination or retrenchment and two new persons, namely, Sharad Ghuttar and Shri Prashant Dange were appointed w.e.f. 20-4-99 and others were also appointed thereafter and action of the Party No.1(b) is arbitrary and in breach of settled principles of law. The workman has prayed to hold the order of his termination from service as illegal and to reinstate him in service with continuity and back wages and compensation.

3. The party No.1 (a) & I (b) in their written statement pleaded inter-alia that the workman had worked as a casual worker in the capacity of a helper in two phases and he was engaged on verbal contract as a unskilled labour and no letter of appointment was given to him and payments were made vouchers and he was engaged for carrying the rock samples in the field and for camp work, as and when his services were necessary and the GSI is a scientific department engaged in various types of exploration work under the department of mines and it is not an industry within the purview and meaning of the Act and 34 employees are not working at Warora Camp and the workman was engaged in the camp only to do various type of miscellaneous job of temporary nature and was paid wages on daily payment basis as per governments rates and the workman did not work continuously from

18th November, 97 till 22nd April, 99 and he worked in temporary capacity from 18-11-97 to 13-5-98 and the question of regularization of the workman does not arise, as he did not satisfy the relevant rules laid down by the Department of Personnel and Training, Government of India and there is a ban on fresh recruitment by the Government in all cadres, which is also applicable to them and for terminating the services of the casual worker, there was no need, whatsoever to follow any legal procedure and as such, when the services of the workman were no longer necessary, the same were terminated. The Party No.1 (a) and (b) have not denied that Warora Camp is still functioning and new casual workers had been engaged suddenly for few days, due to contingency and there was no irregularity in engaging two casual workers temporarily and the question of giving employment to several other junior helper is denied as no employment has been given to anybody and as the workman was a temporary daily wage employee and was not appointed to the post in accordance with the prescribed rules and his disengagement from service cannot be construed to be retrenchment and as such, the workman is not entitled for any relief.

4. It is necessary to mention here that from 27-7-2007 neither the Party No.1 (a) and (b) nor their advocate appeared in the case. As the Party No.1 (a) and (b) remained absent and no step was taken on their behalf, "no cross order" in respect of the cross-examination of the workman was passed and the reference proceeded ex parte against the Party No. 1 (a) and (b).

5. The workman in his evidence which is on affidavit has reiterated the facts mentioned in the statement of claim. Except the oral evidence, no other evidence has been adduced by the workman.

It is well settled that when the claim of the workman that he had worked for 240 days in a year preceding his termination is denied by the management the onus lies upon the workman to show that he had in fact worked for 240 days in the year preceding his termination. It is also well settled that in absence of proof of receipt of salary or wages or record of appointment, filing of an affidavit by workman is not sufficient evidence to prove that he worked for 240 days in a year preceding his termination. [In this regard, the judgement of the Hon'ble Apex Court as reported in AIR 2002 SC - 1147 (Range Forest Officer Vs S.T.Hadimani) and AIR 2005 SC-2179 (Manager, RBI Vs. S.Mani) may kindly be referred to].

In this case, except the affidavit, the workman has not adduced any other evidence in support of his claim. In the written statement, the Party No.1 (a) and (b) have admitted that the workman worked continuously from 18-11-97 to 13-5-98. If such admission is taken into consideration, it can be found that the same does not show that the workman worked for 240 days in the preceding 12 calendar months before the date of his termination and as such, the provisions of Section 25-F of the Act are not applicable to his case. Hence, the order of termination of the workman cannot be held to be retrenchment from service. Hence, it is ordered:

ORDER

The action of the management of Director of (Drilling)/Drilling-In-charge, Geological Survey of India Calcutta/Warora Camp in not reinstating into the services with full wages of Sh. Shrikant Gulab Kshirsagar is legal and justified. The workman is not entitled for any other relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 31 मई, 2011

का.आ. 1724.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गैरीसन इंजीनियर (नॉर्थ) के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, बीकानेर के पंचाट (संदर्भ संख्या) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-13011/2/2009-आई आर (डीयू)]

जोहन तोपनो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Bikaner shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Garrison Engineer (North) and their workmen, which was received by the Central Government on 31-5-2011.

[No. L-13011/2/2009-IR (DU)]

JOHAN TOPNO, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण, बीकानेर

पीठासीन अधिकारी : श्री ओम प्रकाश गुप्ता, आरएच.जे.एस.

केन्द्रीय औद्योगिक विवाद प्रसंग संख्या 4/2009

The Secretary, MES Employees Union, [INTUC], 1, Hanuman Hatta, Gali No.1, Bikaner, Rajasthan.

- प्रार्थी/प्रमिक-यूनियन

विरुद्ध

The Garrison Engineer [North], Military Engineering Services, Bikaner

-अप्रार्थीगण/नियोजक

प्रसंग अन्तर्गत धारा 10 (1) (घ),

औद्योगिक विवाद अधिनियम, 1947

अधिनिर्णय

दिनांक 30 नवम्बर, 2010

1. श्रम मंत्रालय, भारत सरकार द्वारा "औद्योगिक विवाद अधिनियम, 1947" जिसे आगे चलकर केवल अधिनियम कहा गया है की धारा 10 की उप-धारा (1) के खंड (घ) के अधीन जारी

किए गए आदेश क्रमांक एल-13011/2/2009-आई आर (डीयू), नई दिल्ली दिनांक 3-8-2009 के द्वारा प्रेषित इस प्रसंग [reference] में वर्णित निम्न विवाद अधिनिर्णयार्थ इस न्यायालय में भेजा गया था:-

“Whether the action of the management of Garrison Engineer [North], Military Engineering Services, Bikaner in denying commuted leave to Shri Gordhan for the period from 25-6-2004 to 26-6-2004 (2 days); 14-9-2004 to 25-9-2004 (12 days); 30-8-2004 (one day); and 5-10-2004 to 7-10-2004 (3 days) is legal and justified ? If not, what relief the workman concerned is entitled to ?”

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया ।

3. प्रार्थी की ओर से यूनियन प्रतिनिधि अधिकरण के समक्ष दिनांक 30-4-2010 को उपस्थित हुए । तत्पश्चात् आज दिन तक प्रार्थी श्रमिक अथवा प्रार्थी यूनियन की ओर से कोई अधिकृत प्रतिनिधि न्यायाधिकरण में उपस्थित नहीं हुआ है । आज दिनांक तक प्रार्थी यूनियन की ओर से श्रमिक गोरधन के सम्बन्ध में statement of claim भी प्रस्तुत नहीं किया गया है । ऐसा प्रतीत होता है कि प्रार्थी श्रमिक-यूनियन एवम् अप्रार्थी नियोजक के मध्य कोई विवाद नहीं रहा है एवम् प्रार्थी श्रमिक प्रकरण को चलाने का इच्छुक नहीं है । ऐसी परिस्थिति में “कोई विवाद नहीं” का यह पंचाट पारित किया जाता है, जो अधिनियम की धारा 17(1) के अन्तर्गत प्रकाशनार्थ भारत सरकार को भेजा जावे ।

4. अधिनिर्णय आज दिनांक 30-11-2010 को विवृत न्यायालय में सुनाया गया ।

ओ. पी. गुप्ता, पीठासीन अधिकारी

नई दिल्ली, 31 मई, 2011

का.आ. 1725.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टाटा इंस्टिट्यूट ऑफ फैंडामेन्टल रिसर्च के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में लेबर कोर्ट, पुणे के पंचाट (संदर्भ संख्या) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-42012/104/2000-आई आर (डीयू)]

जोहन तौपनो, अवर सचिव

New Delhi, the 31st May, 2011

S.O. 1725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947); the Central Government hereby publishes the award of the Labour Court, Pune shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tata Institute of Fundamental Research and their workmen, which was received by the Central Government on 31-5-2011.

[No. L-42012/104/2000-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, THIRD LABOUR COURT, PUNE AT PUNE.

Reference (IDA) No. 498/2000

The Centre Director, NCRA

Tata Institute of Fundamental Research
University Campus,
Ganeshkhind Road,
Pune-411007

... First Party

And

R.S. Lokhande
Thermal Road,
Shivajinagar Telangwada,
Parli Vaijanath
Tal. Parli,
Dist. Beed - 431 520

....Second Party

Coram : Shri. R.M. Pande

APPEARANCES :

Mr. J.B. Shaligram - Adv. for First Party.

Mr. N.A. Kulkarni - Adv. for Second Party.

ORDER ON PRELIMINARY POINT

AWARD - I

(Delivered on this 26th day of April, 2011)

The demand of the Second Party that the termination caused by the First Party is illegal and further that he be reinstated with continuity and full back wages is referred to this court for adjudication. After issuance of the notices to both the sides, the parties appeared and filed their contentions.

2. The Second Party filed statement of claim at Exh. 8 and contended that he was appointed with the First Party as a “Tradesman B” from 21-8-1995. The First Party alleged that his appointment was on contract basis. Though, according to the Second Party his appointment was further extended vide letter dated 24-7-1997. Thereafter, he was again given a letter giving him appointment on regular basis on probation. This probation was for the period of one year and it was by letter dated 4-12-1998. It is contended that since the date of his appointment till his services were terminated, his entire service record is clean and unblemished.

3. It is further case of the Second Party that in the termination order, the First Party made reference to the rules and bye-laws. Further, it is contended that the rules and bye-laws have not been proved by the proper Government, and therefore, it has no legal force. There is no Notification u/s 13(b) of the Industrial Employment (Standing Order) Act. It is further contended that even if it is assumed that the service conditions of the Second Party

are covered by the rules and bye-laws then also fundamental bye-laws the person cannot be appointed on contract basis. It is further contended that the entire tenure of the service is against the provisions of Standing Order and rules and bye-laws and therefore, is not legal and according to the Second Party, these are not binding on him. Apart from this, it is contended that he has completed 240 days continuous service with the First Party. Therefore, at the time of termination of services, the First Party ought to have given one months notice or have paid one months salary. Neither such evidence is given nor any legal dues are paid to him at the time of termination of service. There is no compliance of Section 25-F of the Industrial Disputes Act, 1947. It is specifically contended that the termination of services of the Second Party is against the provisions of Industrial Disputes act and termination is illegal and void ab initio.

4. It is further contended that there is no compliance of Section 25-F of the Industrial Disputes Act while terminating the services of the Second Party. As such, on all these grounds, it is contended that the termination of the Second Party is illegal and, therefore, he raised dispute before the Central Government Labour Commissioner. The First Party appeared there and took stand that the Second Party was appointed on probation and on expiry of the period of probation, his services were terminated. It is contended by the Second Party that though such stand is taken by the First Party before the Commissioner, it has not been disputed by the First Party that the Second Party has rendered continuous service with the First Party from 1995 till 8-11-1999. Further, as the termination of services of the Second Party is without compliance of any provisions of law, it is illegal and hence has prayed that his termination order is illegal and has further prayed for reinstatement with continuity of full back wages.

5. The First Party filed written statement at Exh. 12. The contentions of the First Party have been denied by the First Party. According to the First Party, the National Centre for Radio Astrophysics NCRA is under the control of Tata Institute of Fundamental Research. The said institute is under the administrative and financial control of the Department of Atomic Energy, Government of India. The funds are given to this institute by the Government. The said institute conducts research in the area of pure science i.e. Fundamental Research in Radio Astronomy. It is contended that this has given rise to many great discoveries and all these research is being carried out by NCRA. It is further contended that the Tata Institute of Fundamental Research has set up Giant Metrewave Radio Telescope (GMRT) as a national facility under the wings of Department of Atomic Energy (DAE). It has provided research facility for astronomy and astrophysics. One of the primary aims of the telescope is to search for the highly redshifted 21 cm line radiation from primordial neutral hydrogen clouds to determine the epoch of galaxy formation in the universe. This according to the First Party institute constitutes fundamental research. Therefore, it

is contended that it cannot at all be said that it is the Industry as defined u/s 2(j) of the Industrial Disputes Act, 1947. All the activities done by the First Party are beyond the scope of the definition of Industry. Further the Department of Atomic Energy is out of the purview of provisions of industry by Government of India. On all these counts, it is contended that the First Party is not at all industry. Further, it is contended by the First Party that this Court has no jurisdiction to try and entertain the dispute.

6. Taking these two primary objects, it is contended by the First Party that the issue in respect of the Industry be decided as preliminary issue. Apart from this, it is contended that the Second Party was employed as "Tradesman B Fitter" and his appointment was on contract basis. It was accepted by him in writing. Thereafter, he was appointed on probation. During the period of probation, he has manhandled one Mr. Gaikwad and, has committed serious misconduct. Therefore, the First Party has left with no other alternative than to terminate the services of the Second Party. It was terminated only because the Second Party had manhandled Mr. Bhau Gaikwad with shoes in presence of other employees and has committed serious misconduct. The Second Party has admitted his guilt and therefore, he has terminated his services. This is the main contention of the First Party regarding the termination. The rest of the contentions of the Second Party have been denied by the First Party. Apart from this, at present we are considered with the preliminary issue. It is denied by the First Party that it has terminated the services of the First Party illegally and without following any procedure. On all these counts, it is contended that the reference is not maintainable and the Second Party is not entitled for any of the reliefs as claimed. Hence, according to the First Party, the reference is liable to be answered in the negative.

7. On the above case of the parties, my learned predecessor framed issues at Exh. 13. As per note below, Exh. 13, the Issue No. 1 and 2 were decided as preliminary issue and the First Party was directed to lead evidence first. I reproduce these issues no. 1 and. 2 alongwith my findings thereon against them with reasons to follow:

PRELIMINARY ISSUES

FINDINGS

1. Whether the First Party is an "Industry" as defined u/s 2 (j) of the Industrial Disputes Act, 1947 ?	Yes
2. Whether the present reference is maintainable before this Court in view of the contention raised by the First Party that the First Party is controlled by the Central Government of India?	Yes
3. What Award?	First Party is an Industry and the reference maintainable.

REASONS

8. PRELIMINARY ISSUES NO.1 AND 2: In support of its case, the First Party has relied on various documents filed on record and adduced oral evidence of Mr. Anant Krishna who deposed, at Exh. 29. The documents which has been relied by the First Party are such as photographs at Exh. 30 to 34 and the certificate issued at Exh. 35, letter at Exh. 36 and 37. The Second Party has relied on the copies of account extract at Exh. 64 and also on the evidence of the Second Party which is at Exh. 64.

9. The main contention of the First Party is that the First Party is not at all Industry. For this purpose, the Learned Advocate - Mr. J.B. Shaligram, for the First Party, took me through the activities carried out by the First Party. Regarding the activities carried out by the First Party, the witness of the First party has stated in detail in examination in chief. Moreover, these activities are in detail can be gathered from the photographs which are filed on record. Relying on the evidence filed by the First Party and these photographs, it is contended that the main work of the First Party is carrying research work. It works on the funding of the Government and it just tries to analyse the waves received from the universe and make research on it. Relying on these activities, the learned Advocate - Mr. J.B. Shaligram, for the First party, has relied on the certificate and the letters filed on record wherein the Government officer itself has declared that the First Party can not be an Industry as it is not carrying any commercial activity. Initially relying on its evidence, it is submitted that the First Party by no stretch of imagination can be said to be an Industry. Moreover, it is argued that burden to prove the fact that the First Party is an Industry is on the Second Party which is not all been discharged by the Secand Party.

10. Secondly, the Learned Advocate - Mr. J.B. Shaligram, for the First Party, has relied on the cross examination of the Second Party wherein according to him, the Second Party in several terms has admitted that it is not an Industry but it carries purely the research work. He lastly brought my attention towards the admissions given by the Second party wherein the Second Party has admitted that all the employees with the Second Party are related with the research work only. Relying on such evidence and particularly activities carried out by the First Party when it is purely the research work, it is submitted that the First Party is not at all an Industry.

11. On the other hand, the Learned Advacate - Mr. N.A. Kulkarni, for the Second Party, submitted that the systematic activity is carried out by the First Party and it falls well within the definition of Section 2(j) of the Industrial Disputes Act, 1947. The Learned Advocate - Mr. N.A.Kulkarni, for the Second Party, took me through the observations of the Hon'ble Supreme Court in the case of Bangalore Water Supply & Sewerage Board etc. Vs. Rajappa and others reported in 1978 (52) FJR 197 and submitted that the Hon'ble Supreme Court has laid down the triple tests to ascertain as to whether the particular

establishment is Industry or not. Applying the said triple test of the said facts and circumstances of the case, it is very much clear that the First Party is an Industry.

12. I have heard both the sides at length. It has come in the evidence of the First Party that it is registered as a trust with the Charity Commissioner. Further, about more than 150 employees are working with the First Party. The work which is been carried out by the First Party is only in the nature of the research but in my opinion that alone would not be sufficient to hold that the First Party is not an Industry. As stated, it is true that the First Party is doing the work of research. Further, how said work is been carried has to be seen. The First Party works on the funds given by the Government. Further, it maintains the account. The First Party was called upon to produce certain documents but those were not produced. Further, the copy of extract only at Exh. 63 would go to show that the First Party maintains the account and there is turnover of the financial transaction in it. Further, the research work which has been carried out by the First Party has come in the cross examination of the First Party. The witness of the First Party has admitted that the research work is made available through science journals. He further admitted that the documents at Exh. 39 which is the article used to be supplied by particular agency such as Science Journal Publishing Agency. Thereafter, such agency published it in the entire world. He has further admitted that he does know as to whether such publication is free publication or paid publication. He is not able to answer as to how many of it are paid publication. That goes to show that some of them are paid publication also. Not only this, he also admitted that in some cases, the first party used to pay publication charges also. Considering these activities and the way in which the first party works it appears that it is a systematic activity carried out by the First Party which includes some financial transactions also such as publication of activities in science journal, which can be published in science journal on payment of charges and can be made available to the public in general. After that it has its Income and Expenditure Account also and it is a registered trust. All these activities would go to show that it is a systematic activity organised by co-operation between employer and employee for the production and/or distribution of goods and services. It is laid down by the Hon'ble Supreme Court in the case of Bangalore Water Supply and Sewerage Board Vs. Rajappa and Others reported in 1978 (52) FLR 197 appears to have been satisfied and at such, considering the arguments of the Learned Advocate - Mr. N.A.Kulkarni, for the Second Party and the evidence on record, it is clear that the First Party is an Industry within the meaning of section 2(j) of the Industrial Disputes Act, 1947. The fact that the Government officer can issue certain certificate and declare the First Party to be not an Industry will not make any difference as such. To ascertain as to whether the particular establishment is an Industry or not we have to go through the definition of Industry as defined under section 2 (j) of the Industrial Disputes Act, 1947 and also

pronouncement of Judgments of the Hon'ble Supreme Court and High Court.

13. The Learned Advocate - Mr. J.B. Shaligram, for the First Party, has relied on the case of Physical Research Laboratory Vs. K. G. Sharma reported in 1997 ICLR 1116. I have gone through the observations of the Hon'ble Supreme Court in the cited case. On going through the evidence in the present case and in view of all above discussions, in my opinion, I do not find that the observations of the Hon'ble Supreme Court in the cited case SUPRA can be made applicable in the present facts and circumstances of the case. As the facts and circumstances of the present cases are different in view of all above, I hold that there is sufficient evidence on record which would show that the First Party is an Industry within the meaning of Section 2(j) of the Industrial Disputes Act, 1947 and as such further reference is maintainable. Therefore, I answer Preliminary Issue No. 1 and 2 in the affirmative and in answer to Issue No. 3, pass following order:

ORDER

1. The Preliminary Issue No. 1 and 2 are answered in affirmative.
2. It is hereby held that the First Party is an Industry within the meaning of section 2 (j) of the Industrial Disputes Act, 1947 and further it is held that the reference is maintainable.
3. Cost in cause.

Place: Pune

Date : 26-4-2011

R. M. PANDE, Presiding Officer

नई दिल्ली, 1 जून, 2011

का.आ. 1726.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रम न्यायालय, धनबाद न.-। के पंचाट (संदर्भ संख्या 38/2007) को ग्राहकित करती है, जो केन्द्रीय सरकार को 1-6-2011 को प्राप्त हुआ था।

[सं. एल-20012/59/2007-आई आर (सी-1)]

डॉ. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 1st June, 2011

S.O. 1726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2007) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 1-6-2011.

[No. L-20012/59/2007-JR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of a reference U/s. 10 (1) (d) (2A) of I.D. Act, 1947

REFERENCE NO. 38 of 2007

Parties:

Employers in relation to the management of Lodna Colliery of M/s. B.C.C.L.

AND

Their workman

PRESENT: SHRI H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri U. N. Lal, Advocate

For the Workman : Shri R. R. Ram, Representative

State: Jharkhand Industry : Coal

Dated, the 19-5-2011

AWARD

By Order No. L-20012/59/2007-IR (C-I) dated 12-7-2007 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether the action of the management of Lodna Colliery of M/s. B.C.C.L. in dismissing Shri Hira Singh, Loader from the services of the company w.e.f. 22-3-2003 is justified and legal ? If not, to what relief is the concerned workman entitled ?”

2. The case of the concerned workman is that he was a permanent workman in Lodna Colliery, Pit No. 3 of M/s. BCCL working as miner/loader. The management served with a charge-sheet to the concerned workman vide charge-sheet dated 21-3-2003 for unauthorised absence from his duty. Management alleged over him to absent from his duty since 23-10-2002 to 20-3-2003. He received a news from his native village about his mother's sudden illness. He was not aware of the rule of the company, so he was not able to inform the authority concerned. After returning from his village he reported for his duty, but the management did not allow him to join and he was dismissed from his service w.e.f. 22-3-2003 without assigning any reason.

It has been prayed by the concerned workman before the Hon'ble Tribunal to pass an award in favour of the workman by directing the management to re-instate him in service with full back wages.

3. The case of the management, in short, is that the concerned workman had absented from his duty unauthorisedly w.e.f. 23-10-2002 for which he was issued

with a charge-sheet dated 21-1-2003 under para 26.1.1 of the Certified Standing Orders of the Company for habitual absenteeism without sufficient cause. He replied to the charge- sheet which was not found satisfactory. Thereafter an enquiry was conducted by the Enquiry Officer. During enquiry the concerned workman turn up. The Enquiry Officer held the enquiry against the concerned workman and submitted his report holding the concerned workman guilty of the charge levelled against him. During last four years attendance of the concerned workman was—in 1999—105 days, in 2000—Zero, in 2001—46 days and 2002—16 days. The guilt was accepted by the workman. On the basis of enquiry report the Disciplinary Authority had finally imposed the penalty of dismissal from service of the concerned workman vide order dated 22-3-2005.

It has been prayed that the Hon'ble Tribunal be pleased to pass the award holding that the action of the management in dismissing the workman concerned is justified and he is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The domestic-enquiry was held to be fair and proper vide order dated 18-3-2010.

6. The management has produced documents which have been marked as Exts. M-1 to M-13.

7. Main argument advanced on behalf of the concerned workman that the dismissal of the concerned workman from service w.e.f. 22-3-2003 by the management is not justified. He was dismissed for his absence from duty w.e.f. 23-10-2002. The management has given details of habitual absence in para 8 of its written statement, which shows that his attendance was in 1999 only for 105 days, in 2000 his attendance was 'zero', in 2001 his attendance was only 46 days and in 2002 his attendance was only for 16 days. This shows that he was dismissed from service as he was not interested to work with the management. Management's order shows that we was served with enquiry notice and he was given fair opportunity and second show-cause notice was also given. Considering of the facts that he was habitual absentee and he was given in the year 1999 punishment of stoppage of two increments. He was absent in 1999 from 20-12-98 to 27-7-99, in 2000 his attendance was 'nil', in 2001 his attendance was only for 46 days. He was absent from duty 24-4-2000 to 27-8-2000 and also from 7-7-2001 to 2-11-2002, for this he was given strick warning for two years. This shows his past conduct. He was unable to change his conduct, so it shows that he was not interested to work with the management.

8. Considerring the above facts, I hold that the action of the management of Lodna Colliery of M/s. BCCL in dismissing Shri Hira Singh, Loader from the service of the company w.e.f. 25-3-2003 is justified and he is not entitled to any relief.

This is my award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 1 जून, 2011

का.आ. 1727.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय न.-1, धनबाद के पंचाट (संख्या संख्या 79/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2011 को प्राप्त हुआ था।

[सं. एल-20012/71/2005-आई आर (सी-1)]

डॉ. एस. एस. श्रीनिवास राव, डेरेक अधिकारी

New Delhi, the 1st June, 2011

S.O. 1727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 79/2005) of the Central Government Industrial Tribunal-cum-Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 1-6-2011.

[No. L-20012/71/2005-IR (C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10 (1) (d) (2A) of the I.D. Act.

REFERENCE NO. 79 of 2005

Parties:

Employers in relation to the management of Hurriladih Colliery of M/s. B.C.C. Ltd.

AND

Their workmen

PRESENT: Shri H.M. SINGH, Presiding Officer

APPEARANCES:

For the Employers : Shri U. N. Lal, Advocate

For the Workmen : Shri Ram Katan Ram, Joint General Secretary, B.M.U.

State: Jharkhand Industry : Coal

Dated, the 18-5-2011

AWARD

By Order No. L-20012/71/2005-IR (C-I) dated 3-9-95 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

“Whether the action of the management of Hurriladiah Colliery of M/s. B.C.C.L. in dismissing Sri Raghupati Ram, M/ Loader from the service w.e.f. 2-9-2004 is justified ? If not, to what relief is the concerned workman entitled ?”

2. The case of the concerned workman is that he was a permanent workman in Hurriladiah Colliery, of BCCL. He performed his duty regularly, sincerely, and punctually and never neglected his duty. He is young and strong and is liable to do his original job and comes of scheduled caste. The management issued a charge-sheet on 2-4-2004 alleging over him unauthorised absence from his duty. He had been suffering from mental dis-order since 27-2-04 and he was under medicare of Dr. B. P. Sinha ‘Neuro Psychiatrist’ at Ranchi. He informed the management regarding his treatment by registered post. Inspite of several written information, the management charge-sheeted the concerned workman vide letter dated 24-7-04 and 6-8-04. In the meanwhile, the management dismissed him from his service w.e.f. 2-9-2004. Thereafter the matter has been referred by the Ministry of Labour to this Hon’ble Tribunal for adjudication. It has been submitted that the action of the management in dismissing the concerned workman from service is unjustified and he is entitled to reinstatement in service with full back wages.

It has been prayed that Hon’ble Tribunal by Pleased to pass an award in favour of the workman by directing the management to reinstate the concerned workman with full back wages.

3. The case of the management is that the concerned workman had been unauthorisedly absenting from the services of the company w.e.f. 25-2-2004. A charge-sheet dated 2-4-2004 was issued to him. The Disciplinary Authority had got the matter enquired into by appointing the Enquiry Officer & Presenting Officer. The concerned workman had fully participated in the enquiry held on 5-8-2004 and 13-8-04. The Enquiry Officer had given full opportunity by way of natural justice to defend his case in the enquiry. Thereafter, the Enquiry Officer had submitted his enquiry report wherein the charge of habitual absence as per clause 26.1.1 of the Certified Standing Order was fully established. He was issued the second show-cause notice vide letter No. 1229 dated 15-9-2004. The Disciplinary Authority had imposed the penalty of dismissal vide letter No. 1464 dated 2-9-04. His attendance was very poor. In the year 1993 he was issued with a charge-sheet for unauthorised absence and was allowed to resume his duty vide Office Order No. 1710 dated 21-3-98. He had again started absenting unauthorisedly w.e.f 3-4-98. Another charge-sheet was issued to him under clause 26.1.1 of the Certified Standing Order. However, a lenient view was taken after holding enquiry and he was allowed to resume his duties vide letter No. 126 dated 30-1-04. It has been submitted that the action of the management in dismissing the concerned workman from his service w.e.f. 2-9-04 is just,

fair and quite reasonable after proved misconduct as per the provision of the Certified Standing Order. Thus, the concerned workman is not entitled to get any relief.

It has been prayed that this Hon’ble Tribunal be pleased to pass an award holding that the dismissal of the concerned workman is just, fair and quite reasonable and he is not entitled to get any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some paragraphs of each other’s written statement.

5. The domestic enquiry has been held to be fair and proper vide order dated 30-4-2010.

6. No evidence has been produced from either side. Documents filed by the management has been marked as Exts.M-1 to M-7.

7. Main argument advanced on behalf of the workman is that he was getting mental problem and he was getting his treatment from Dr. S. P. Sinha, Neuro psychiatrist, Ranchi and he had also taken his treatment from the Company’s Central Hospital, Dhanbad, but the management has not given any weight to his treatment and passed dismissal order without complying the law laid down by the Hon’ble Supreme Court and without giving enquiry report and proceedings to the concerned workman as second show cause notice.

8. The management’s representative argued that the concerned workman was a habitual absentee. The habitual absenteeism has not been proved as he was suffering from mental disorder and as per certificate issued by Dr. B. P. Sinha, Neuro-psychiatrist in which it has been stated that the concerned workman was brought before him twice for treatment. Papers filed by him shows that he got his treatment since long. So in this circumstances when he was suffering from mental disorder he should have been given medical leave or leave without pay but the management dismissed him from service. Moreover, in passing final dismissal order no second show-cause notice was given to the concerned workman which violated the law laid down by the Hon’ble Supreme Court reported in 1991 Current Labour Report (SC) 61 in which the Hon’ble Supreme Court held that supply of a copy of the inquiry report along with recommendation, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would therefore be entitled to the supply of a copy thereof.

9. Considering the above facts and circumstances I hold that the action of the management of Hurriladiah Colliery, of BCCL in dismissing Sri Raghupati Ram, M/ Loader from the service w.e.f. 2-9-2004 is not justified. Accordingly, he is entitled to be reinstated in service with 25% back wages. The management is directed to implement the award within 30 days from the date of publication of the award.

This is my award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 1 जून, 2011

का.आ. 1728.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद नं. 1 के पंचाट (संदर्भ संख्या 85/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2011 को प्राप्त हुआ था।

[सं. एल-20012/296/1995-आईआर (सी-1)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 1st June, 2011

S.O. 1728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85/1996) of the Central Government Industrial Tribunal-cum-Labour Court -1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 01-06-2011.

[No. L-20012/296/1995-IR(C-I)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U.S. 10(1) (d) (2A) of the Industrial Disputes Act, 1947

Reference No. 85 of 1996

Parties : Employers in relation to the management of Bhowra Area of M/s. B.C.C. Ltd.

AND

Their Workman

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES :

For the Employers : Shri R.N. Ganguly, Advocate
For the Workmen : Shri R.Rai, Representative

State : Jharkhand

Dated, the 28th May, 2010

AWARD

By Order No. L- 20012/296/95-IR (Coal-I) dated 11-10-96 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand by the Union that Sh. Bir Bahadur Gour is eligible for regularisation as

Attendance Clerk/Munshi is legal and justified? If so, to what relief is the said workman entitled?”

2. Written statement has been filed on behalf of the workman stating that Bir Bahadur Gour, Excav. (T), Bhowra (North) O.C.P. vide letter dated 10/11-4-91 was advised by the Agent, Bhowra (N) OCP to do the job of Munshi/Attendance Clerk. As per order of the Agent he has been working as Attendance Clerk with satisfaction to his superiors and still continuing. As per Standing Orders a workman who has completed 240 days in the same job, should be regularised in the same designation and grade. In the letter of the Agent it has been clearly mentioned that on expiry of six months as Attendance Clerk the concerned workman will be judged to make permanent. But inspite of that the concerned workman has not yet been regularised as Attendance Clerk.

It has been prayed that the Hon'ble Tribunal be pleased to pass an Award in favour of the workman by directing the management to regularise the concerned workman as Attendance Clerk with retrospective effect.

3. Written statement has been filed by the management stating that Sri Bir Bahadur Gour was appointed as Excavation (Trainee) in Cat. I ib 29-9-88. After successful completion of training period he was regularised as Excavation plant Helper in Exv. Cat. E w.e.f. 29-1-93. The then Agent, Bhowra North O.C.P. had issued a letter authorising the workman concerned to look into the job of OBR/Munshi/Attendance Clerk in an unauthorised manner, as the Agent of a colliery is not empowered by any rules to deploy the technical persons in a clerical job. Morevoer, the above letter was issued on the verge of retirement of the than Agent obviously with the ulterior motive and malafide intention to render undue help to the concerned workman to seek into the clerical/white collar job by passing and ignoring the specific instruction of the company. It has been submitted that the Agent was not competent to display any person in the clerical capacity and therefore the letter issued by the then Agent authorising Bir Bahadur Gour to work as OBR Munshi/Attendance Clerk is invalid and should not be relied upon. The regularisation of Bir Bahadur Gour as Excavation plant Helper in Excavation Gr. E.w.e.f. 29-1-93 as mentioned in para 3 above clearly shows that he has been regularly working as E.P. Helper and not as Attendance Clerk/Munshi. Had he been really working in clerical job from 11-4-91 as claimed by him, then he would not have been regularised as E.P. Helper and he would not have accepted the same. In fact, he never worked as Munshi/Attendance Clerk, but only looking into the job of OBR Munshi/Attendance Clerk as per the letter in question and that too never beyond six months.

In rejoinder the management has stated the same facts as have been stated in the written statement.

It has been prayed before this Tribunal to pass an award in favour of the management holding that the concerned workman is not entitled to any relief.

4. In rejoinder to the written statement of the management, the workman has stated almost same facts as have been stated in the written statement.

5. The concerned workman has produced himself as WW-1 and has proved documents as Ext. W-1 and W-2.

The management has produced MW-1, Gopal Chandra Sarkar.

6. Main argument advanced on behalf of the concerned workman that the management is taking work of Attendance Clerk from the concerned workman and he has been performing duties for more than six months continuously but the management has not regularised him as Attendance Clerk.

7. The management has argued that the post of Attendance Clerk/Munshi is cadre post. In this regard it has been submitted that Bir Bahadur Gour was appointed as Excavation (Trainee) in Cat. I on 29-9-88 and he has been regularly working as E.P. Helper and not as Attendance Clerk/Munshi. Had he been really working in clerical job from 11-4-91 he would not have been regularised as E.P. Helper and he would not have accepted the same.

8. In this respect the evidence of the concerned workman WW-1, is material, who was appointed as Excavation (Trainee) in Cat. I on 29-9-88 and after completion of training period he was regularised as Excavation Plant Helper in Excavation Gr. E.w.e.f. 29-1-93. Ext. W-1 shows that the management vide letter dated 10-4-91 ordered Bir Bahadur Gour to look into the job of OBR Munshi/Attendance Clerk till further order and his work will be considered at the expiry of six months and will be judged to make permanent in the said post.

9. MW-1, Gopal Chandra Sarkar, has stated in cross-examination that "It is correct that the concerned workman is also performing the job of a clerk like me. It is true that the Manager, Agent and Asstt. Manager are considered to be the incharge of a colliery for the purpose of its smooth functioning. Over this letter there is a signature of Sri A. K. Khawas, the Agent of the concerned colliery which I identity. (Already marked Ext. W-1). It shows that the Agent is authorised to take job of Attendance Clerk or Munshi from the concerned workman and as per Standing Order of the Company 7.2 it shows that a permanent workman is who has worked for about six months or who has worked for six months continuously on a probation and according to 7.3 of the Standing Orders the probation period is six months unless it is extended. There is no order to show that his probation period is extended. It shows that he is working in the post of Attendance Clerk/Munshi and was worked for more than six months. This order was passed by Sri A. K. Khawas, the Agent of the concerned colliery (Ext. W-1) and as per evidence of the management MW-1 on 12-11-2002, Gopal Chandra Sarkar stated that it is correct that the concerned workman is also performing the job of a clerk like

me. It shows that the demand of the concerned workman for his regularisation as Attendance Clerk/Munshi is justified.

10. Accordingly, I render the following award—the demand by the union that Sh. Bir Bahadur Gour is eligible for regularisation as Attendance Clerk/Munshi is legal and justified. Since he has been working in that post w.e.f. 11-4-91 as per order of the management dated 10/11-4-91 (Ext. W-1), the management is directed to regularise him in the said post w.e.f. 11-4-91 within 30 days from the date of publication of the award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 1 जून, 2011

का.आ. 1729.—औद्योगिक विवाद अधिनियम, 1947 (1947

का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अमन्यायालय, धनबाद नं. 1 के पंचाट (संदर्भ संख्या 39/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-6-2011 को प्राप्त हुआ था।

[सं. एल-20012/233/2003-आईआर (सी-1)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 1st June, 2011

S.O. 1729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2005) of the Central Government Industrial Tribunal/Labour Court -1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 1-6-2011.

[No. L-20012/233/2003-IR(C-I)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of the Industrial Disputes Act, 1947

Reference No. 39 of 2005

PARTIES : Employers in relation to the management of Katras Choituh Colliery of M/s. B.C.C.L.

AND

Their Workmen

PRESENT : Shri H. M. Singh, Presiding Officer

APPEARANCES :

For the Employers : Shri D. K. Verma, Advocate

For the Workman : Shri A. K. Rai, alongwith
Shri Ramayan Rai,
Representatives.

State : Jharkhand

Industry : Coal

Dated, the 24th May, 2011

AWARD

By Order No. L-20012/233/2003-IR (C-I) dated 31-3-05 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Katras Choitidih Colliery of M/s. BCCL, in dismissing Sri Suresh Nonia from the services of the company vide order dated 17-5-2001 is fair and justified ? If not, to what relief is the concerned workman entitled?”

2. The case of the concerned workman is that he was a permanent workman working at Katras-Choitidih Colliery as a miner/loader. During the course of employment he fell sick with acute T.B. of lungs and he was taking treatment in Central Hospital, Dhanbad. After recovery from illness the concerned workman appeared before the management with medical fitness certificate on 7-8-99 for reporting for his duties. The management of Katras Choitidih allowed him to work in 2 Pit mine of the colliery. He started the work of loading coal for sometime in 2 Pit underground mine when the Nine-in-charge and Asstt. Manager reached there and stopped the concerned workman from working and lifted him out of the mine. The concerned workman approached the Colliery Manager, Project Officer and the Welfare Officer in this regard, but without any effect. Since then the poor and helpless workman kept on moving in and around the colliery office every day, but the management illegally issued charge-sheet and took his signature on some papers and thereafter illegally dismissed him from work.

It has been prayed that this Hon'ble Tribunal be pleased to pass an award in favour of the concerned workman directing the management to reinstate the concerned workman with full back wages.

3. The case of the management is that the concerned workman was a permanent employee working as a miner/loader at Katras-Choitidih Colliery. He started absenting from his duty w.e.f. 16-1-2000 without any leave or prior permission of the management. The above act of the concerned workman is misconduct according to the Certified Standing Order of the Company. He was issued with a chargesheet vide chargesheet dated 2-12-2000. He submitted his reply which was not found satisfactory and accordingly the management appointed Enquiry Officer to conduct domestic enquiry against the concerned workman. The Enquiry Officer issued to him and he also appeared before the Enquiry Officer who conducted enquiry in presence of the concerned workman. Enquiry Officer submitted his report holding that the charges levelled against the concerned workman was proved. After

considering the report of the Enquiry Officer and past conduct of the concerned workman the management dismissed him from service vide dismissal letter dated 16/17-5-2001.

In rejoinder the management has stated that the concerned workman was a habitual absentee and during last years the attendance of the concerned workman is mentioned below:

In 1997 175 days only.

In 1998 4 days only.

In 1999 Nil.

It has also been stated that the concerned workman admitted his guilt during the enquiry.

It has been prayed that this Hon'ble Tribunal be pleased to hold that the action of the management in dismissing the concerned workman is legal and justified and further be pleased to hold that the workman concerned is not entitled to any relief.

4. In rejoinder to the written statement of the management, the concerned workman stated almost the same things as have been stated in the written statement.

5. The domestic enquiry was held fair and proper vide order dated 27-11-2009.

6. The management produced MW-1, Balsare Sudhakar Bhagawant Rao who proved documents, Ext. M-1, to M-6.

The concerned workman examined himself as WW-1, Suresh Nonia, and proved documents as Ext. W-1 to W-3.

7. Main argument advanced on behalf of the concerned workman is that he was suffering from T.B. and he is illeterate person. He has been dismissed from services by the management without affording reasonable opportunity to him. It has also been argued that by a petition dated 6-10-05 in para 2 giving details for summoning documents from the management. These documents will show he was without knowledge of the management though there is no single instance for habitual absentee.

In this respect evidence of management's witness is very much material. MW-1 in his cross-examination stated that I can not say if he worked for one year properly. I have got no knowledge if the concerned workman was suffering from T.B. I do not know if the concerned workman was sent to Central Hospital by the management. I have got no knowledge when the concerned workman reported for duty to underground mine, he was not allowed to work. Letters were issued by my office for treatment at Central Hospital to the concerned workman. The same are marked as Exts. W-1 and W-2. I have mentioned the fact that the concerned workman was T.B. Patient in my enquiry report.

So, the evidence produced by the management shows that the concerned workman was suffering from T.B. and he sent for treatment by the management to Central

Hospital. This fact is proved and admitted by the management itself that the concerned workman was suffering from T.B. No absenteeism has been proved by the management. Ext. W-1 shows that he was sick and was under treatment from 19-8-98 to 30-1-99 at Central Hospital, Dhanbad. This letter of the management and another letter Ext. W-2 also for treatment of the concerned workman by the management. Order passed by the management for dismissal, Ext. M-6, shows that no second show-cause notice was given to him which law laid down by the Hon'ble Supreme Court reported in Current Labour Report (SC) 1991 page 61 in which Hon'ble Court held that supply of a copy of the inquiry report along with recommendation, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice.

8. The management has referred (2008) I Supreme Court Cases (L&S) 164 in which Hon'ble Supreme Court laid down that when there is habitual absenteeism about 15 times and when a person is absent 15 times unauthorisedly then it shows he is not interested to work and dismissal of service is not unjustified.

In the present case the management have got no sympathy on the concerned workman who is suffering from T.B. and though the management were giving him treatment in their hospital. There is no past history of absenteeism and he was illegally dismissed from service without affording second show-cause notice.

Considering the above facts and circumstances, I hold that the dismissal from service of the concerned workman is not justified and he is entitled to be reinstated in service with effect from 17-5-2001 with full back wages and consequential benefits.

9. Accordingly, I render the following award -

The action of the management of Katras Chitudih Colliery of M/s. BCCL in dismissing Suresh Nonia from the service of the company vide order dated 17-5-2001 is not fair and justified and hence the concerned workman is entitled to be reinstated in the service of the company with effect from 17-5-2001 with full back wages and other consequential benefits. The management is directed to implement the award within 30 days from the date of publication of the award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 2 जून, 2011

का.आ. 1730.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान केजीटेबलस ऑयल्स कॉर्पोरेशन लिमिटेड के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. I, नई दिल्ली के पंचात

(संदर्भ संख्या 31/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एल-42011/44/98-आईआर (डीय)]

डी. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S.O. 1730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. I, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Hindustan Vegetables Oils Corporation Limited and their workmen, which was received by the Central Government on 2-06-2011.

[No. L-42011/44/98-IR(DU)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. I, KARKARDOOMA COURTS COMPLEX,
DELHI

I.D. No. 31/2010

Shri Virender Pal,
C-44/18, Sudama Puri,
Gali No. 8 & Gamri Extn.
Delhi-110053.

....Workman

Versus

The Asstt. General Manager,
Hindustan Vegetables Oils Corporation Limited,
64-65, Satguru Ram Singh Marg,
Kirti Nagar, New Delhi

.... Management

AWARD

An environmentalist filed a writ petition before the Apex Court seeking closure of hazardous industries, which were being run in capital city of Delhi. On that petition the Apex Court issued directions for closure of such 'industries'. In wake of such directions, Hindustan Vegetables Oil Corporation Ltd. (hereinafter referred to as the management) formulated a scheme for voluntary retirement of its employees. The said scheme was open till 31st of August, 1996, which happened to be a holiday. On 30th of August, 96 various employees, including Shri Virender Pal (hereinafter referred to as the claimant) submitted their applications seeking voluntary retirement in pursuance of the scheme referred above. Requests of voluntary retirement, so made by the claimant and others were accepted by the management on that very date. On acceptance of that request, the claimant was communicated,

vide letter dated 11th of September, 1996, that he stood retired from service of the management w.e.f. 4-9-96. However, in between on 3rd of September, 96, the claimant wrote to the management that his application, seeking voluntary retirement, may be cancelled and returned, which request was not conceded to. The claimant made a protest to the management through letter dated 17-9-96. Ultimately he raised an industrial dispute before the Conciliation Officer. On 4th of May, 98 Conciliation Officer advised the management to reinstate the claimant, which advice was not followed. Since Conciliation proceedings failed, Conciliation Officer submitted his failure report to the appropriate Government. On consideration of the said failure report, the appropriate Government refused to refer the said dispute for adjudication to an authority under the Industrial Disputes Act, 1947 (in short the Act).

2. A petition, being W.P. (C) No. 829/99, was moved by the claimant before High Court of Delhi seeking writ of mandamus, directing the appropriate Government to refer the dispute for adjudication. On 28-2-2000 a notice of closure of Subji Mandi unit was displayed by the management on notice board of the said unit. It has been claimed that retrenchment compensation was paid to the employees by the management, besides additional compensation equal to six years wages and gratuity. However, on consideration of facts in totality the High Court directed the management to release retiral benefits in favour of the claimant as per scheme of 1996. A sum of Rs. 214739 was paid to the claimant by the management in pursuance of the directions referred above, which amount was accepted by the claimant without prejudice to his rights. Vide order dated 19-4-2010 the appropriate Government was commanded by the High Court to reconsider its decision of refusal to make a reference of the dispute for adjudication and take an appropriate decision on request of the claimant for reference of the dispute to an industrial adjudicator. In pursuance of missives, so given the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. L-42011/44/98-IR(DU), New Delhi, dated the 28-05-2010, with following terms:

“Whether the action of the management of Hindustan Vegetable Oil Corporation in accepting voluntary retirement of their workman Shri Virender Pal w.e.f. 30-08-1996 is legal and justified? If not, what relief the workman is entitled to?”

3. Claim statement was filed by Virender Pal pleading therein that he was employed by the management as unskilled worker on 1-6-74. He worked to entire satisfaction of the management and as such was designated as cell room attendant in April, 1976. Subsequently in 1988, he was designated as supervisor. However, he continued to perform duties of Cell-Room-Attendant-cum-Compressureman irrespective of his designation as supervisor. He belonged to the category of unionized staff. In June, 1996, the management invited applications for voluntary retirement from its employees, cut off date of

submitting such application was 31st of August, 96. In the meanwhile the Apex Court had directed, vide its order dated 8th of July, 96, to close down some of establishments of management, including its Subzi Mandi unit at Delhi w.e.f. 30-11-96. The management was commanded to pay retrenchment compensation @ 15 days wages for each completed year of service, besides an additional compensation equal to six years wages and gratuity. The benefits, so ordered by the Apex Court, were higher than those offered by the management under voluntary retirement scheme. He had not submitted any application for voluntary retirement. None of the employees at Subzi Mandi unit submitted application for voluntary retirement and as such the scheme resulted into a failure. On 31st of August, 96 the management sent a notice under section 25-O of the Act to the Secretary Labour seeking permission to retrench workmen, whose names were enlisted w.e.f. 30-11-96. His name was there in the list so sent to the Secretary Labour by the management.

4. On 3rd of September, 96 officers of the management gave threat to the claimant and other workmen and fraudulently misled them about adverse financial consequences for not opting to voluntary retirement scheme. The management adopted all methods to get signatures of the claimant and his colleagues on application for voluntary retirement and the applications so filled, were ante-dated purported to have been filled on 30-8-96. The claimant was misled to sign proforma application for voluntary retirement on 3-9-96 which was ante-dated as to be signed on 30-8-96. Immediately, on that very date he moved an application, thereby, withdrawing his application for voluntary retirement which was got signed under force, fraud and undue influence. He prayed that the application, so submitted may be considered as withdrawn and revoked. His application for voluntary retirement was neither returned nor cancelled. On account of severe mental depression he remained under medical rest till 9th of September, 96.

5. When he went to his duty on 10-9-96, he was not taken on duty. He immediately wrote a protest letter to the Labour Commissioner, Unit Incharge and Police Station, Roop Nagar in that regard. On 17th of September, 96, he received a letter purporting to have been sent on 11-9-96, thereby informing him that he had been retired w.e.f. 4-9-96. Prior to that date he was neither served with any letter nor communicated about acceptance of his application for voluntary retirement. On 17-9-96 he sent another protest letter to the Unit Incharge, with a copy to the Labour Commissioner. He reported the matter to Ganesh Floor Mill Mazdoor Sangh (herein after referred to as the union), of which he was a member. The union sent a letter of demand on 30-9-96. He also sent another letter dated 8-10-96. Action of the management in retiring him from service is illegal, arbitrary and unjustified, since he was fraudulently misled to sign the application for voluntary retirement on 3-9-96.

6. He filed a dispute before the Conciliation Officer on 5-1-98 through his union. On 4-5-98 Conciliation Officer advised the management to reinstate him in service. Conciliation proceedings failed on 12-8-98. Appropriate Government opted not to refer his dispute. He was constrained to file writ petition being WP(C) No. 829 of 99 before High Court of Delhi, seeking directions for the appropriate Government to refer the dispute for adjudication. The management continued to run Subzi Mandi unit and did not retrench other employees on 30th of November, 96. On 28-2-2000 a notice was displayed by the management declaring closure of its establishment w.e.f. 29-2-2000. All employees were paid retrenchment compensation and additional compensation equal to six years wages, besides gratuity. In view of all these facts, High Court directed the management to pay retiral benefits to the claimant, in pursuance of retirement scheme of 1996, and allowed him to accept such benefits without prejudice to his rights. A sum of Rs. 214739 was paid to him by the management in pursuance of the directions, referred above. High Court decided his writ petition, vide order dated 19th of April, 2010 directing the appropriate Government to refer the dispute for adjudication. In case his services would have not been terminated by the management upto 29-2-2000, he would have earned wages and received retrenchment compensation, besides additional compensation and gratuity. He projects that he is unemployed since the date of termination of his services and has no other source of income. He claims that action of the management in retiring him from service may be declared as illegal, unjustified and arbitrary. He may be declared in service of the management upto 29-2-2000 and entitled to retrenchment compensation besides additional compensation equal to wages for six years and gratuity, after adjusting the amount already recevied by him.

7. Claim was demurred by the management pleading that it was Government of N.C.T., which was appropriate Government for making a reference of the dispute for adjudication. Since Central Government is not appropriate Government, hence reference is incompetent and liable to be rejected. Claimant, alongwith other employee of the management, applied for voluntary retirement on 30-8-96. He was well aware, that on acceptance of his request for voluntary retirement he cannot withdraw the request so made. His request for voluntary retirement was accepted on 30-8-96 itself, hence he could not withdraw it subsequently. The management disputes that in April, 1988, he was merely designated as supervisor and continued to perform the same duties, as were performed before that date. Main and substantial duties, permformed by the claimant, were supervisory and he does not fall within the definition of the workman since he was drawing wages exceeding Rs. 1600 PM. He was not performing any duties which may bring him within the definition of workman; as defined by clause (s) of Section 2 of the Act. Hence the reference is not legally maintainable.

8. The management pleads that on account of heavy losses suffered, it had been declared as a sick industry by the Board of Industrial and Financial Reconstruction, in its meeting held on 24-12-99. Vide order dated 7-12-2001, the Board formed an opinion that the management should be wound up. which order was upheld by the Appellate Authority vide its order dated 4-8-2003 and winding up proceedings pends before High Court of Delhi. An official liquidator has already been appointed. As such the claim made by the claimant for reinstatement in service with back wages upto 29-2-2000, retrenchment compensation and additional compensation equal to six years wages is likely to be rejected. The claimant was relieved from service on 409-96 and Subzi Mandi unit was closed w.e.f. 19-12-2000, in pursuance of orders passed by the Apex Court in M.C. Mehta's case. Hence claimant is not entitled to any additional compensation granted by the Apex Court to the employees, who were on the roll of the management till 29-2-2000.

9. The management had been floating Voluntary Retirement Scheme from time to time, based on various circulars of the Central Government. The management pleads that at the relevant time claimant, besides other 36 employees, applied for voluntary retirement on 30-8-96 and on acceptance of his request for retirement, he could not withdraw his application. In its order dated 8-7-96 the Apex Court did not deal with any voluntary retirement and commanded the management for stoppage of all large/ harardous industries in Delhi w.e.f. 30-11-96. The order referred above does not speak of payment of any retrenchment compensation or additional compensation equal to six years wages and gratuity to the employees who sought voluntary retirement from services prior to actual closer of the unit. His voluntary retirement has no nexus with the order dated 8-7-96 passed by the Apex Court. It has been claimed that application for closer, under section 25-O of the Act, was prepared at earlier point of time and due to inadvertence name of the claimant remained in the list since his request for voluntary retirement was accepted only one day before of moving the application. It has been disputed that officer of the management gave any threat to the claimant and others or fraudulently misled them about adverse financial consequences of not opting for voluntary retirement scheme. It has been disputed that any other employees were deputed to get signatures of the claimant on the proforma application for voluntary retirement. It has also been disputed that the application was moved by the claimant on 3-9-96 and it was ante-dated purported to have been signed on 30-8-96. Except the claimant, none asserted that he was forced to submit application for voluntary retirement on 3-9-96 and it was ante-dated purporting to have been moved on 30-8-96. In fact last date for moving an application for voluntary retirement was 31-8-96 and request for voluntary retirement was accepted on 30th of August, 96. Information relating to relieving the

claimant from service was sent to the unit where he was posted and relieved from service on the eve of 4-9-96. Under these circumstances his application for withdrawal of request for voluntary retirement on 3-9-96 could not be allowed. Since his request was already accepted by the management and when he came to know about acceptance of his voluntary retirement, he moved an application for withdrawal of it on 3-9-96. Since he had worked upto 4-9-96, he was paid wages for that date. It has been claimed that request, made by the claimant to be treated him on duty till 29-2-2000, grant of retrenchment compensation as on that date, besides additional compensation, is misconceived and liable to be rejected. Management presents that the claim presented by Shri Virender Pal is devoid of merits and liable to be dismissed.

10. On pleadings of the parties following issues were settled:

1. Whether the claimant was induced to sign proforma for voluntary retirement on 3-9-96 and it was subsequently ante-dated as that of 30-8-96 by the management?
2. Whether the claimant withdrew his voluntary retirement application on 3rd of September, 96?
3. Whether the claimant is not a workman within the meaning of clause (s) of Section 2 of the Industrial Disputes Act, 1947?
4. Whether the action of the management accepting voluntary retirement application of the claimant w.e.f. 4-9-96, is legal and justified?
5. Relief.

11. Application, moved by the management seeking settlement of an issue to the effect that Central Government is not an appropriate Government in the present controversy, was disposed of vide order dated 11-8-2010.

12. To discharge onus resting on him, the claimant has examined himself as well as Shri Rajesh Kumar Tyagi. Besides examination of these two witnesses claimant had filed certain documents which were exhibited as Ex. W1 to Ex. W10. Management examined Shri V.C.V. Chenulu and Shri S.C. Sharma in support of its case. No other witness was examined by either of the parties.

13. Arguments were heard at the bar. Shri M.N. Singh, authorised representative, advanced arguments on behalf of the claimant. Ms. Deepti Singh Sodhi, authorised representative, presented her point of view on behalf of the management. Written arguments were also filed by the parties. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows :

Issue No. 1

14. In his affidavit Ex. WW1/A the claimant swears that in June, 96 management invited application from its employees in prescribed format for voluntary retirement

and last date to submit such application was 31st of August, 96. He had not submitted any application for voluntary retirement. None of the workman in his unit applied for voluntary retirement and scheme resulted in failure, being disowned by the employees. Failure of the said scheme caused sever set back to the management. Therefore on 31st of August, 96, the management sent a notice Section 25-O of the Act to the Secretary Labour, seeking permission to retrench workman w.e.f. 30-11-96. A list of workman to be retrenched on closure of the establishment was enclosed with that application, wherein his name was included. Inclusion of his name in that list shows that he never applied for voluntary retirement. He went on to detail that on 3rd of September, 96 officials of the management gave threat to him as well as other co-workmen and fraudulently misled them about adverse financial consequences of not opting for voluntary retirement scheme. The management adopted all methods to get his signatures on proforma application for voluntary retirement and ante-dated it to be read as 30-8-96. In that manner he was forced and fraudulently misled to sign proforma application for voluntary retirement on 3-9-96. Besides him other workman were misled by officials of the management to sign proforma application for voluntary retirement. On that very date, he moved an application thereby withdrawing proforma application for voluntary retirement, which was signed by him under force, fraud and undue influence. In that application he prayed that application form submitted by him for voluntary retirement, be considered as withdrawn and revoked and it be returned back to him. Application for withdrawing the proforma application for voluntary retirement was moved by him before acceptance of his application for voluntary retirement. He came under severe mental depression and remained under medical rest till 9th September, 96. On 10-9-96 he was not taken back on duty, without serving anything in writing, spelling reasons for such refusal to taken him on duty. On 17th of September, 96, he received a letter purporting to be issued on 11-9-96, thereby informing him that he had been retired from service w.e.f. 4-9-96. On that very day, he sent a protest letter through his counsel to the Unit Incharge of Subzi Mandi unit as well as the Labour Commissioner. During the course of his cross examination, he concedes that application Ex. WW-1 M-1 bears his signatures at point A. He also concedes that letter Ex. WW1/M2 bears his signature. He projects that he had withdrawn his application from voluntary retirement scheme vide letter Ex. WW1/10. He further concedes that except him, none else had filed a dispute against the management in respect of voluntary retirement scheme.

15. Rejesh Kumar Tyagi unfolds that he was serving the management in Boiler Department, Subzi Mandi unit, Delhi. Till 31st of August, 96, none submitted application opting for voluntary retirement. On 3rd September, 96 Shri Virender Pal was made to file form of voluntary retirement. Shri D.R. Tiwani, Assistant General Manager,

called the claimant as well as others one by one and advised them to opt for voluntary retirement saying that the factory was under financial crises. He declined to fill in form for voluntary retirement while the claimant opted for it. He advised the claimant that he had opted for wrong idea and should withdraw his application on that very date. Claimant moved an application for withdrawal of his application for voluntary retirement. During the course of his cross examination he presents that Shri Tiwani had not called employees in group. He was not aware as to what transpired between Shri Tiwani and claimant. He further concedes that Shri Tiwani had not used force on anyone when he tried to opt for voluntary retirement scheme. He presents that he gathered information that about 40 persons had opted for voluntary retirement scheme.

16. Shri V.C.V. Chenna tendered his affidavit Ex. MW1/A swearing that a voluntary retirement scheme 1993 was introduced which was valid upto 7-6-93, copy of which is Ex. MW1/6. Vide circular dated 4-6-96, the management opened its voluntary retirement scheme for a period of three months w.e.f. 1-6-96, copy of which circular is Ex. MW1/9. The claimant submitted his application for voluntary retirement on 30-8-96 and Board of Directors, by way of circulation, had accepted his application alongwith application of 36 other employees on 30-8-96 itself. A memo dated 2-9-96 was sent to Unit Incharge, Subji Mandi unit, where claimant was employed, informing him that the competent authority had accepted request for all 37 employees for voluntary retirement and date of acceptance may be taken as 30-8-96. Unit Incharge was requested to relieve employees on receipt of the said memo and to pay voluntary retirement scheme benefits to them as per rules. On 4-9-96 a letter was issued by the Unit Incharge to the claimant informing him that he stands relieved from service w.e.f. 4-9-96, copy of which letter is Ex. MW1/12. On 3-9-96 claimant wrote to the Unit Incharge pleading therein that he submitted an application for voluntary retirement scheme at the instance of some un-named persons and his request may be cancelled. Since his application for voluntary retirement stood accepted, he could not be permitted to withdraw the request. During the course of this cross examination, he concedes that when someone is retired, a no dues certificate is obtained from him. He projects that as per record the claimant has moved application for voluntary retirement on 30-8-96 and his application alongwith others were referred to the Board vide letter Ex. MW1/12. He does not dispute display of notice dated 31st of August, 96, on notice board at Subji Mandi unit, copy of which is Ex. WW1/4.

17. Shri S.C. Sharma swears in his affidavit Ex. MW2/A that claimant Virender Pal, besides 36 other employees, submitted application for voluntary retirement under scheme of 1993, on 30th of August, 96. The application were processed by 1:00 PM and sent to Head Office on that very day through special messenger. Board of

Directors had considered those applications, by circulation accepted request of voluntary retirement and resolved that those employees may be relieved with immediate effect. Copy of minutes of the Board's meeting held on 30-8-96 are Ex. MW2/1. Subji Mandi unit was informed by the Head Office in respect of acceptance of request of voluntary retirement of 37 employees vide letter dated 2nd of September, 96 since 31st August and 1st of September, 96 were close days for the head office. On 3rd of September, 96 claimant wrote to Assistant General Manager of Subji Mandi unit with a request for cancellation of voluntary retirement form. His request was forwarded to the Head Office by Shri Tiwani on 3-9-96. The head Office processed request of the claimant but since his request for voluntary had already been accepted by the Board of Directors, he was not permitted to withdraw his request. Copy of note sheet dated 4-9-96 and the other note sheet dated 6-9-96 with approval granted by Shri R.C. Vaish are Ex. MW2/4. Claimant was informed vide letter dated 11-9-96 that his request for withdrawal of voluntary retirement had not been accepted, copy of which letter is Ex. MW2/5. During the course of his cross examination, he projects that all 37 applicants submitted forms under voluntary retirement scheme in his presence to Shri Tiwani. Those forms were submitted within two hours. He was sitting in the office of Shri Tiwani during that period, since the latter had called him. He disputes that the claimant submitted his application for voluntary retirement on 3-9-96.

18. When facts projected by witnesses of rival parties are appreciated, it came to light that the claimant does not dispute that Ex. WW1/M1 bears his signatures. When perused it came to light Ex. WW1/M1 is the application form filled in seeking retirement under voluntary retirement scheme 1989/1993. All particulars relating to the claimant are detailed therein, besides the date of application as that of 30-8-96. Claimant does not project that contents of this application were filled in by some one else other than him. Consequently it is evident that it is not the case of the claimant that personal data, relating to his name, employee number, designation, date of birth, date of appointment, completed years of service and date of application were not filled by him in application Ex. WW1/M1.

19. It is not a disputed fact that Ex. WW1/M2 was sent by the claimant to Chairman cum Managing Director and two other Directors of the Management on 17-10-96. When contents of documents Ex. WW1/M1 and Ex. WW1/M2 are scanned, it emerge that claimant does not dispute that he moved an application for voluntary retirement on 30-8-96. He projects in Ex. WW1/M2 that the application for voluntary retirement was filled in under special circumstances and mental disturbances. He projects therein that it was not acceptable to his family that he should seek voluntary retirement. A request was made that his application for voluntary retirement may be cancelled and he may be taken back on duty. This document, which was

written by the claimant himself, projects that he does not present a case to this effect that he moved an application for voluntary retirement on 3rd of September, 96 which was ante-dated, purported to be moved on 30-8-96. It is crystal clear that till Ex. WW1/M2 was moved by the claimant on 17-10-96 his stand was that application of voluntary retirement was moved by him on 30-8-96 under special circumstances and mental distress.

20. Claimant projects that on the very date, on which he moved an application for voluntary retirement, he wrote to Assistant General Manager, who was Unit In-charge of Subji Mandi unit, opting to withdraw his application for voluntary retirement, which application is Ex. WW1/10. When perused, Ex. WW1/10 highlights that the claimant presents a case that he moved an application for voluntary retirement on inducement by someone and under emotions. Later on he thought over the matter and realized that he had done something wrong. His children were minor and on account of filling up the form for voluntary retirement, peace in his family stood disturbed. He lost his mental balance and was feeling uneasy. He requested that his application for voluntary retirement may be cancelled and returned to him. As projected above, contents of Ex. WW1/10 highlight that after filling form for voluntary retirement, the claimant deliberated facts with his family members, which deliberation resulted in disturbance of peace in his family. Without making a return to his house, he was not in a position to deliberate facts with his family member. He remained in office for whole of the day. From these facts, it is evident, that claim, projected by Shri Virender Pal that the was induced to sign voluntary retirement application on 3-9-96, is further from truth.

21. As emerge out of the facts detailed in Ex. WW1/M2 and Ex. WW1/10 it is concluded that Shri Virender Pal filled in form for voluntary retirement on 30-8-96. His claim that he was induced by someone to fill in that form is dispelled by his own admissions contained in Ex. WW1/M2 and Ex. WW1/10. Theory projected by the claimant that officers of the management gave such inducement stood discarded by plain and clear words of these documents. Consequently I am constrained to conclude that Shri Virender Pal had fabricated facts to that he was induced by officials of the management to sign voluntary retirement application form. Such a theory was coined for the first time when Ex. WW1/12 was written by the General Secretary of the union, espousing cause of the claimant. When Ex. WW1/M2 was written by that time claimant was not aware about the facts spurned by the General Secretary for espousal of his cause. A discrepancy is noticed in content of notice Ex. WW1/12 and Ex. WW1/M2. Since Ex. MW1/M2 is a document authored by claimant himself, it discards contents of Ex. WW1/12. In view of these facts it is announced that there was no inducement from anyone and claimant filled in form for voluntary retirement of his own on 30th of August, 96. The issue is, therefore, answered in favour of the management and against the claimant.

Issue No. 2

22. Claimant swears in his affidavit that he moved an application on 3rd of September, 96 for withdrawal of application for voluntary retirement. He asserts that the said application was moved before his application for voluntary retirement was accepted by the Competent Authority. He went on to detail that the management never communicated facts relating to acceptance of his application for voluntary retirement till 17th of September, 96 the date when he received letter dated 11-9-96. According to him, by that time he had already moved an application for withdrawal of his offer of voluntary retirement. Shri Rajesh Kumar Tyagi also presents that the claimant submitted an application for withdrawal of his offer of voluntary retirement.

23. Ex. WW1/10 was written by the claimant on 3rd of September, 96 making a request to treat his form voluntary retirement as cancelled. Thus out of facts projected by the claimant and his witness it is apparent that an application for withdrawal of request for voluntary retirement was made by the claimant on 3rd of September 96. Whether claimant could make a request for withdrawal of his application for voluntary retirement on 3-9-96? For an answer facts are to be scrutinized. As unfolded by the claimant himself, employees were supposed to submit applications under the scheme till 31st of August, 96 the date on which the scheme was to close. Shri Chenulu deposed that voluntary retirement scheme 1993 was introduced by the management, which was valid upto 7-6-93. He details that vide its circular dated 4-9-96, voluntary retirement scheme was reopened by the management for a period of three months w.e.f. 1-6-96, copy of which circular is Ex. MW1/9. Therefore it is emerging over the record, out of facts testified by Chenulu as well as those presented by the claimant, that voluntary retirement scheme was open upto 31-8-96 and not thereafter.

24. Whether the claimant was competent to withdraw his request of voluntary retirement after closer of the scheme? Contents of the scheme would throw light on this proposition. Clause 3.1 of Ex. MW1/9 contemplates that all regular employees shall be eligible to seek voluntary retirement. Application for voluntary retirement shall be made in writing through proper channel to the Competent Authority. Clause 4 gives a discretion to the Competent Authority to accept or reject application of an employee for voluntary retirement, keeping in view the criteria, requirement or any administrative reason and the decision of the management shall be final. No voluntary retirement shall be deemed to have come into effect unless decision of the Competent Authority has been communicated in writing. Clause 6-1 makes it clear that an employee will not have right to withdraw his application once submitted for voluntary retirement. Contents of above clause makes it clear that the claimant was precluded from making any request for withdrawal of his application for voluntary retirement.

25. To note relevant provisions for government servants, it is expedient to have a glance on rules in that regard, which may help the Tribunal in construing contents of the scheme, referred above. Fundamental Rule 56(k) makes provision for voluntary retirement by a government servant. It has been detailed therein that any government servant may, by giving notice of not less than three months in writing to the appropriate authority, retire from service after he has attained the age of 55 years, if he is in group A or group B service or post and had entered government service before attaining the age of thirty-five years and in all other cases after he has attained the age of fifty-five years. It has further been provided therein that a government servant, who has elected to retire under that rule and has given necessary intimation to that effect to the appointing authority, shall be precluded from withdrawing his offer subsequently, except with the specific approval of such authority, provided that the request for withdrawal shall be within the intended date of his retirement. The rules, referred above, make it clear that a government servant, who has elected to retire shall be precluded from withdrawing his election subsequently, except with specific approval of the appointing authority. In that case the request of withdrawal shall be made within the intended date of his retirement and not thereafter.

26. The scheme mandates that once an application for voluntary retirement is submitted an employee may have no right to withdraw it. Restriction, so imposed, is absolute. It may spell that the restriction imposed is unreasonable. Considering that situation, a question arises as to whether an employee can withdraw his application, on his sweet will. Answer lies in negative. His right of withdrawal of the application has to be regulated. Otherwise it may create problems for the employer. Therefore it would be reasonable to say that an employee cannot withdraw his request for voluntary retirement unilaterally. He has to seek approval of the Competent Authority for withdrawal of his request for voluntary retirement and that request should be made within his intended date of retirement. Assessing the matter on that standard, one may say that the claimant cannot unilaterally withdraw his application for voluntary retirement. He was under an obligation to seek approval of the Competent Authority. Assuming that the Competent Authority would approve the act of withdrawal of request for voluntary retirement, even in that situation that request should come within the intended period within which the scheme closed. Here in the case, the claimant does not project a situation that he made an application for withdrawal of his request for voluntary retirement by 31-8-96, the date when the scheme closed. No approval was accorded on his act of withdrawal of request for voluntary retirement by the Competent Authority. Therefore, these circumstances highlight that the request made by the claimant for withdrawal of his request for voluntary retirement, on 3rd of September, 96 was without any approval from the Competent Authority and beyond the period for which the voluntary retirement scheme was in operation.

27. "Withdrawal" relate to an act of choice. It is a positive act, which may be outcome of inaction, but either to act or not to act in a given situation must be within the ambit of liberty to be exercised by the person in whom power is vested to do that positive act. As detailed above scheme was in operation up to 31-8-96, the scheme does not vest any power in the claimant to make withdrawal of his request for voluntary retirement. A discretion was left with the management to accept or reject the request of voluntary retirement, as provided in Ex. MW1/9. Treating contents of clause 6 of Ex. MW1/9 to be unreasonable, even in that situation the claimant cannot be vested with a right to make withdrawal of his request of voluntary retirement unilaterally. There should be an approval from the Competent Authority to allow withdrawal of request for voluntary retirement.

28. Now I will proceed to ascertain whether the Competent Authority allowed his withdrawal of request for voluntary retirement ? Shri Chenulu projects that applications, submitted for voluntary retirement, were accepted by the Competent Authority on 30-8-96 and under those circumstances claimant could not be permitted to withdraw his request for voluntary retirement and informed accordingly. Shri S. C. Sharma came out with sequence of events which took place when 37 applications were received by the management on 30-8-96. He unfolds that those applications were received by Shri D. R. Tiwani on 30-8-96 and processed at about 1PM that day. Applications were sent to the Head Office situated at Kirti Nagar, New Delhi, alongwith a covering letter through factory dispatch, in staff car of the unit. By circulation the Board of Directors accepted the request contained in those applications. He proves copy of minutes dated 30-8-96 as Ex. MW2/1 which bear signatures of Shri R.C. Vaish, Executive Director, Shri S.C. Kapoor, Chairman-cum-Managing Director and Shri Kamal Kishore, Director Smt. Manju was informed by the Head Office in respect of acceptance of request of voluntary retirement of all 37 employees by the Board vide letter dated 2-9-96, copy of which is Ex. MW2/2. He unfolds that on receipt of request from the claimant for cancellation of voluntary retirement form vide letter dated 3-9-96, his request was forwarded by the Unit Incharge to the Head Office. Since his request for voluntary retirement was already accepted, his application for withdrawal of that request was rejected and proceedings in that regard are Ex. MW2/3. He was informed vide letter dated 11-9-96 in that regard, copy of which is Ex. MW2/4. Unit incharge has informed him about acceptance of his request for voluntary retirement. These facts highlight that the claimant submitted his request for withdrawal of voluntary retirement form much belatedly. By then his request for voluntary retirement was accepted and there was no occasion for him to make such a withdrawal. Under these circumstances, he could not withdraw his voluntary retirement application on 3-9-96. Issue is, therefore, answered in favour of the management and against the claimant.

Issue No. 3

29. Claimant swears in his affidavit Ex. WW1/A that he was initially employed by the management as unskilled worker on 1st of June, 74. He was later on designated as cell room attendant in April, 96. Vide letter Ex. WW1/2 he was subsequently designated as cell room attendant cum compressureman. Vide letter Ex. WW1/3, he was designated as supervisor in April, 1988. However, he continued to perform same duties as he used to perform earlier. There was no change in nature of his duties, irrespective of his designation. He continued to perform duties of cell room attendant cum compressorman mainly, involving maintenance of cell room and operation of compressors. He was designated as supervisor only with a view to remove a feeling of his being stagnated over a long period of time, by granting marginal increase of his salary and nothing more. He never supervised work of any other workman nor has any power or authority to do so. He had no authority or power to issue any memorandum, notice etc. to other employees nor any power to sanction leaves to the employees. His main duties were to operate cell room and compressors, check temperature, constituents, chemicals, bubbling of cell and to water and other chemicals, if required. No supervisory duties were involved in his functions. His designation was nothing more than a glorious nomenclature.

30. He went on to detail that two kinds of staff viz, unionized staff and non unionized staff, were engaged by the management. Only those employees who fall in category of workman belong to unionized staff. He was member of Ganesh Floor Mill Mazdoor Sangh and its Federation Akhil Bharya Hindustan Vegetable Karamchari Mahasangh. As per agreement between the management and unions, the former has recognized him as a workman. Having a designation of supervisor, he belonged to the category of unionized staff. Letter dated 31-8-96, which is Ex. WW1/4, makes it clear that the management had recognized him as well as other similarly placed employees, with designation of supervisor, as workman, belong to unionized staff falling in category of workman V and sought permission for their retrenchment under the provisions of the Act. Management used to extend all benefits of agreement and settlements that used to take place between management and the workman pertaining to all employees of category V. All employees, who were given designation as supervisors were placed in category of workman V and their scales used to be upgraded and benefits revised as per wage settlements. One of the memorandum of settlement with list of subsequent revised pay scales is Ex. WW1/5. He being placed in category of workman V was given pay scale of Rs. 630-1200, which was revised to Rs. 1330-2280. He details that Shri Subhash Chander, Daya Nand, Udey Ram, Rajinder, Hari Singh, Lalu Ram, Jai Singh, Om Parkash son of Sumer Dass Ram Charan son of Goverdhan, Anmol Singh were designated as supervisors and given benefit of retrenchment compensation as per Section 25-F of the Act,

when they were retrenched by the management. Senior Supervisors were also treated workman category VI and Shri Devi Dutt and Bishan Dass were also paid benefits on their retrenchment under the provisions of the Act. Ex. WW1/6 is final bill of Shri Dayal Singh and Ex. WW1/7, Ex. WW1/8 and Ex. WW1/9 are final bills of the other workman named above. During the course of his cross-examination he presents that letter of his promotion has not been relied by him. However, he asserts that he used to work personally on compressor. He does not dispute that there were other workman who used to work on compressor.

31. Shri Chenulu swears in his affidavit Ex. MW1/A that the claimant was working as supervisor and his wages were more than Rs. 1600 PM. He was performing mainly and substantially duties, which were supervisory in nature, and not a workman within the clause (s) of Section (2) of the Act. During the course of his cross-examination, he does not dispute notice dated 31-8-96, copy of which is Ex. WW1/4. He projects that 20 pages list was annexed with this notice wherein names of all workman, who were to be retrenched, were detailed.

32. When facts unfolded by the claimant and Shri Chenulu were appreciated, it emerged over the record that a notice was displayed by the management on notice board of Subzi Mandi unit, which project that a letter was written to the Secretary, Department of Labour and Employment, Government of N.C.T. Delhi, seeking permission to retrench 293 workman, whose names were detailed in the list annexed with the said notice. Thrust of the letter makes it clear that it was sent to the Government under the provisions of Section 25-O of the Act seeking permission to close down Subzi Mandi unit and retrench 293 workman w.e.f. 30th of November, 96. It is not a disputed fact that name of the claimant appeared in that list, which was annexed with the letter/notice referred above. Therefore, contents of Ex. WW1/4 makes it clear that on 31st of August, 96 management projected that the claimant was one of the workman who were to be retrenched on closure of Subzi Mandi unit w.e.f. 30-11-96. Consequently, it is evident that on 31st of August, 96 the management claimed that the claimant was a workman within the meaning of clause (s) of Section 2 of the Act. Now the management wants to approbate and reprobate facts, which it cannot be permitted to do so.

33. Claimant asserts that he used to perform functions of cell room cum compressureman. He used to run cell and compressor, check temperature, constituent, chemicals, bubbling of cells and to add water and other chemicals, if so required. According to him, his designation, as that of supervisor, was a glorious nomenclature only. He projects that he was a member of unionized staff and belong to workman V category. These facts coupled with factum of grant of retrenchment benefits to various persons named by the claimant were not dispelled by the management, when facts projected by the claimant were purified by an ordeal of cross-examination. On the other hand, claimant places reliance on final bills Ex. WW1/6 to Ex. WW1/9

which were prepared by the management in respect of Shri Dayal Singh, Rajesh Kumar, Naresh Kumar and Pawan Kumar, who were designated as supervisor. When these documents were perused, it became evident that retrenchment compensation was paid to them, despite the fact that they were designated as supervisors. The evidence so adduced make it clear that designation as that of supervisor, given to the claimant and aforesaid persons, was a glorious nomenclature only. On the other hand, the management treated the claimant and persons referred above as workmen. Taking into account all these aspects it is evident that the claimant used to perform manual duties of running cell and compressors, check temperature, constituents, chemicals, bubbling of cells and to add water and other chemicals. His designation as that of supervisor was only a glorious nomenclature. The management has not been able to show that the claimant was employed mainly in managerial or administrative or supervisory capacity. Mere fact that he used to draw wages more than Rs. 1600 per mensem would not exclude him from the category of a workman. In view of the reasons detailed above, it is crystal clear that the management has not been able to show that the claimant performed mainly supervisory functions. All attributes of workman shrouded his responsibility. Consequently it is announced that the claimant was a workman as defined by clause(s) of the Act. Issue is, therefore, answered in favour of the claimant and against the management.

Issue No. 4

34. Much hue and cry has been raised on behalf of the claimant that Shri Ashok Kumar, Kamal Kishore and Shri S.C. Kapoor were present in the chamber of Ashok Kumar on 30-8-96 from 12 noon onwards, at Krishi Bhawan, New Delhi. They discussed several issues including issue of retirement of the claimant and others, besides closer of the unit. It has been argued that signature of only one Director and Chairman-cum-Managing Director are there on the resolution dated 30-8-96 Shri Singh argued that Shri Ashok Kumar joined his duties thereafter in West Bengal and resolution was made after 3-9-96, hence his signatures could not be obtained on it. He presents that these facts make it clear that the management fabricated facts to this effect that resolution was made on 30-8-96. He tried to seek support from letter/notice Ex. WW1/4 which is dated 31-8-96, agitating that in case claimant's request for voluntary retirement was accepted on 30-8-96, there was no occasion for the management to include his name in list of the workman who were to be retrenched. Facts projected by Shri Singh are untenable. Shri Chenulu makes it clear that list of 293 workman was prepared on a manual typewriter and it took days to prepare it. Name of the claimant was there in the list and when he sought voluntary retirement, which was accepted on 30-8-96, his name could not be deleted out of that list. Explanation offered by Shri Chenulu is nearer to the truth. Ex. WW1/4, supported by list of the workman, substantiates facts unfolded by Shri Chenulu. The list contains 20 pages. It is not expected that

this list, with numerous details of the workmen, including their date of birth, date of appointment in service, grade of pay, basic pay, qualification etc. can be prepared in a day. When claimant sought voluntary retirement on 30-8-96 which request was accepted on that very date, his name could not be deleted out of that list, which was affixed on the notice board alongwith letter/notice Ex. WW1/4 on 31-8-96.

35. Shri S. C. Sharma had detailed all sequences of events in which applications for voluntary retirement from 37 employees were received on 30-8-96, it were processed and sent to Head Office alongwith a covering letter. He has also detailed that a resolution by way of circulation was adopted, which is Ex. MW2/1. Contents of Ex. MW2/1 make it clear that resolution was adopted which was signed by Executive Director, namely, R. C. Vaish, Chairman cum Managing Director, Shri S.C. Kapoor and Kamal Kishore, Director, resolving therein that voluntary retirement applications of 37 employees of Delhi unit are accepted. This resolution was communicated to the Unit Incharge, vide Ex. MW2/2, instructing him to take necessary action and relieve all employees immediately on receipt of that letter. Thus it is evident that application of 37 employees were accepted and resolution was signed by the Executive Director, Chairman-cum-Managing Director and Director. Though it is not signed by Shri Ashok Kapur, yet it does not make any infirmity, since the resolution was signed by the aforesaid three authorities, bears the date of which it was adopted and signed by them. An official act is presumed to have been regularly performed, unless proved otherwise. The claimant has not been able to show any irregularity in the resolution, so adopted. Therefore, it is evident that the management accepted the application of the claimant for voluntary retirement on 30-8-96. There is no irregularity/illegality in accepting his voluntary retirement application and relieving him from service of the management on 4-9-96. Issue is, therefore, answered in favour of management and against the claimant.

RELIEF

36. Application for voluntary retirement of the claimant was accepted on 30-8-96. He opted not to receive his retiral benefits. When writ petition was filed by him before High Court of Delhi, an order dated 10-3-2000 was passed wherein it was commanded that the management may release retiral benefits in favour of the claimant, which he agreed to accept without prejudice to his contention. In pursuance of the said order, a cheque for a sum of Rs. 214739.66 was released in his favour, copy of which is Ex. WW1/24. Thus it is evident that all retiral benefits were released to the claimant, in pursuance of order passed by High Court of Delhi. After payment of retiral benefits, the claimant is not entitled to any relief, in view of findings recorded herein above, his claim is liable to be dismissed. Consequently dismissing his claim, an award is passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 07-03-2011

नई दिल्ली, 2 जून, 2011

का.आ. 1731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इन्डस्ट्रीज़ कम्पनी के प्रबंधतंत्र के संबद्ध विवोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 224/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-17012/10/2003-आईआर (बी.-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S.O. 1731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 224/2003) of the Central Government Industrial Tribunal-Labour Court, Nagpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of National Insurance Company and their workman, received by the Central Government on 31-5-2011.

[No. L-17012/10/2003-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR
Case No. CGIT/NGP/224/2003 Date: 23-5-2011

Party No. 1 :

The Divisional Manager,
National Insurance Company,
Ajni Chowk, Nagpur.

Versus

Party No. 2 :

Shri Sunil Laxman Mankar,
Kamla Nagar, Wadi,
Nagpur.

AWARD

(Dated : 23rd May, 2011)

In, exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the National Insurance Company and their workman, Shri Sunil Laxman Mankar for adjudication, as per letter No. L-17012/10/2003-IR(B-I) dated 19-9-2003, with the following schedule:-

"Whether the action of the management of National Insurance Company through its Divisional

Manager, Ajni Chowk, Nagpur (M.S.) in dismissing Shri Sunil Laxman Mankar, Sweeper w.e.f. 28-9-2002 is proper, legal and justified ? If not, to what relief the said workman is entitled to ?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the workman, Shri Sunil Laxman Mankar ("the workman" in short) filed the statement of claim and the management of National Insurance Company ("the Party No. 1" in short) filed its written statement.

3. It is the case of the workman that he was initially appointed on 4-11-1996 as Part time Sweeper through Employment Exchange, Nagpur and thereafter, he was made as full time sweeper by the party no. 1 and he was drawing Rs.4000/- as salary per month and his service record was clean and unblemished and the party no. 1 levelled false charges against him in the charge sheet and he submitted his reply to the charge sheet on 8-11-2001 and the party no. 1 decided to hold the departmental enquiry without holding any preliminary enquiry, in violation of the procedure and principles of natural justice were not followed in the departmental enquiry and he was not given opportunity to defend himself properly in the enquiry and as such, the enquiry was not fair and proper and he was not given any chance to adduce evidence in his defence and the enquiry was closed on 18-3-2002 and the copies of the order sheet of the enquiry proceeding were not supplied to him and the punishment of dismissal from service is too harsh and unreasonable. The workman has prayed for setting aside the order of dismissal dt. 28-9-2002 and to reinstate him in service with full back wages.

4. In the written statement, it is pleaded by the party no. 1 inter-alia that the workman was irregular in attendance and was remaining absent without obtaining prior permission and without sanction of leave and he remained absent for 13 days in 1996, 39 days in 1997, 60 days in 1998, 46 days in 1999, 30 days in 2000, 93 days from 19-6-2000 as FTS and 119 days from 16-4-2001 till 8-10-2001 and as the workman remained absent from 5-10-2000 to 10-11-2000 without prior permission or sanction of leave, he was given a warning on 10-11-2000 and was directed to join his duty on 13-11-2000 and though, the workman received the letter dt. 10-11-2000, he remained absent from duty and therefore, registered letter dt. 16-2-2001 was sent to the workman asking him to submit his show cause for such absence and as the workman did not submit any satisfactory explanation and remained absent from duty w.e.f. 7-3-2001, another letter dt. 16-3-2001 was issued to him, asking him to join duty immediately and the said notice was received by the workman. It is further pleaded by the party no. 1 that as the workman was irregular and was remaining absent,

without prior permission, he was given show cause notices, warnings and at last, a charge sheet was submitted against him and Shri M.M.Lotawar was appointed as the Inquiry Officer and in that enquiry, the workman engaged Shri P.T.A wachat for defending himself and the enquiry was started on 12-11-2001 and was completed on 29-4-2002 and the enquiry was held in accordance with the principles of natural justice and same was fair and legal and in the enquiry, the charges levelled against the workman were found to be proved and as such, he was dismissed from service and no false charge was levelled against the workman and the punishment is justified.

It is necessary to mention here that from 9-1-2007, the workman did not appear in the case and did not adduce only evidence in support of his claim. Management also remained absent from 10-1-2008.

6. As per orders dt. 23-5-2011, the enquiry was held to be legal and proper. As the parties did not appear to take part in the case, the case was closed and was posted for award.

7. Perused the record. Except filing of the statement of claim, the workman has not adduced any evidence in support of his claim. In absence of any evidence to show that the punishment imposed is shockingly disproportionate to the charges levelled against the workman, it is held that the punishment imposed against the workman is just and proper. Hence, it is ordered:

ORDER

The action of the management of National Insurance Company through its Divisional Manager, Ajni Chowk, Nagpur (M.S.) in dismissing Shri Sunil Laxman Mankar, Sweeper w.e.f. 28-9-2002 is proper, legal and justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 2 जून, 2011

का.आ. 1732.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 44/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-2011 को प्राप्त हुआ था।

[सं. एल-12012/301/2003-आईआर(बी.-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S.O. 1732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.44/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial

Dispute between the employers in relation to the management of State Bank of India and their workman, received by the Central Government on 31-5-2011.

[No. L-12012/301/2003-IR (B-1)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/44/2004 Date: 24-5-2011

Party No. 1

The Deputy General Manager,
State Bank of India, Zonal Office,
Region-II, S.V.Patel Marg, Kingsway,
Nagpur and another.

Versus

Party No.2

Shri Mohan Santoshrao Wadaskar,
At & PO Thadiponi, Teh. Narkher,
Distt. Nagpur.

AWARD

(Dated: 24th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India and their workman, Shri Mohan for adjudication to this Tribunal, as per letter No. L-12012/301/2003-IR (B-1) dated 8-4-2004, with the following schedule:-

"Whether the action of the management of State Bank of India through its Dy. General Manager, Zonal Office, Region-II, Nagpur and Branch Manager, SBI, Thadiponi, Taluka Narkher, Distt. Nagpur in terminating the services of Shri Mohan S/o Shri Santoshrao Wadaskar, ex-messenger (Class-IV Category) without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947 is legal and justified and whether the workman is entitled to get any relief as per the provisions of 25-H ? If not, to what relief the workman concerned is entitled ?"

2. Being noticed, the workman, Shri Mohan ("the workman" in short) filed his statement of claim and the management of State Bank of India ("the Party No.1" in short) filed its written statement.

3. The case of the workman is that he has studied up to Matric and he came to be appointed with the party no. 1 in the year 1988 as a Messenger in Class-IV category

on daily wages basis at the rate of Rs.40 per day and such daily wages was raised from Rs.40 to Rs.60 per day w.e.f. 1-1-1994 and right from the date of his appointment, he was in continuous service with clean and excellent service record and the party no.1 is an industry and as such, the provisions of the Act and so also the provisions of Shops and Establishment Act are applicable to it and the provisions of standing orders framed under Industrial Employment Standing Orders Act, 1946 having override effect are also applicable to it and he had completed more than 240 days of continuous service with party No.1 every year and the party no.1, instead of regularizing his services, arbitrarily terminated his services with effect from 1-1-2002 and thereafter, on many occasions he was given assurance by party no. 1 to provide him with work and as such, he remained contented with such assurance and did not approach the authority immediately and before termination of his service, no pay, in lieu of the notice and retrenchment compensation as required under section 25-F of the Act were paid to him and no seniority list was displayed by party no.1 as required under section 25-G of the Act and several juniors to him were retained in service and as such, the termination of his service by party no. 1 is illegal, arbitrary and amounts to colourable exercise of power and the party no. 1 did not intimate the reasons of terminating his service in writing and the work, which he was doing was and is available with the party no. 1 at various places and as per the provisions of section 25-H of the Act, he is entitled to be reappointed as and when vacancies will be available. The workman has prayed for his reappointment and to declare the action of party no. 1 to be illegal and arbitrary.

4. The plea of the Party No.1 in its written statement is that the workman has misquoted the facts and law and he worked purely on casual daily wage basis intermittently for menial work, which interalia include as messenger and Farash etc. at Thadepaoni branch, but without continuity in service, due to administrative exigencies and the workman did not complete 240 days of work in a calendar year as prescribed under law and the workman worked for 252 days in 1990, 88 days in 1991, 47 days (5 days full time and 12 days at 3/4 time) in 1994, 16 days (3/4 times) in 1995 and 111 days (3/4 times) in 1996 and after 1996, the workman on his own joined the work of the canteen with the Local Implementation Committee (LIC) and he was engaged as a canteen boy and persons employed by LIC are not the employee of the bank and as such, there was no relationship of master and servant between the parties and as such, the application is bad-in-law and not tenable and there is delay of eight years in raising the dispute and on that score also the claim is not tenable.

It is further pleaded by the Party No.1 that there was settlement between the State Bank of India and All India State Bank of India Staff Federation on 17-11-87 for giving a chance to the eligible temporary/daily wager/

casual employees in the subordinate cadre for being considered for permanent appointment in the Bank and the said settlement was modified and clarified vide settlements dated 16-7-88, 27-10-88, 9-1-91 and 13-7-96 and as per the settlement dated 13-7-96, it was agreed that temporary employees and casual labourers would be given one time opportunity to be absorbed under certain norms and for that purpose, panels would be prepared for filling up the vacancies and to keep such panels alive up to 31-3-97, after which, the panels would be elapsed and such settlement was binding on the parties and in view of such settlement, the Bank gave an advertisement in news papers calling upon all the eligible temporary employees to apply for permanent appointment in subordinate cadre and the workman in response to such advertisement, applied to the Bank and he was duly considered and interviewed by the Banks Interview Committee and he was empanelled and as the said list lapsed on 31-3-97, as per the terms of settlement, no person named in the said panel could be considered by the Bank for permanent absorption and as the workman choose to join LIC and had not completed 240 days of work in the preceding 12 months from the alleged date of retrenchment, the provisions of section 25-F and 25-H of the Act are not attracted in this case and the workman is not entitled to any relief.

5. Besides documentary evidence, both the parties have led oral evidence in support of their respective claim. The workman has examined himself as a witness. One, Shri Vasant R. Pande, Manager (HR), SBI, Region-II, Zonal Office, Nagpur has been examined as a witness on behalf of the Party No.1.

The workman in his examination-in-chief, which is on affidavit has reiterated the facts mentioned in the statement of claim. In his cross-examination, the workman has admitted that he was working as a temporary employee in the Bank on daily wages and no appointment letter or order was given to him at any time and he does not remember for how many days he worked in 1994, 1995 and 1996 and he was removed from service on 1-1-2002 and he has not produced any document to show that he was removed from service on 1-1-2002 or that he worked in the Bank in 1996 and till 2002 and he has not filed any document showing that he worked for 240 days in any year except 1990 and he was alone on daily wages and he was not sponsored by Employment Exchange and Bank had never given any advertisement for temporary employee and he was not medically examined and there was no police verification and he does not know whether the Bank has engaged any person or junior person against his post.

The witness for the management has also reiterated the facts mentioned in the written statement, in his examination-in-chief, which is also on affidavit. In his cross-examination, he has stated that the workman was

never working under him and the chart given in his affidavit regarding the days of work of the workman was prepared by him with reference to the records of the Branch and in 1997, the workman was implemented in the canteen by a Local Implementation Committee, which was running the canteen and the workman was in the canteen from 1997 to 2001.

6. At the time of argument, it was submitted by the learned Advocate for the workman that the workman was appointed in 1988 as a daily wager by Party No.1 and the workman had completed 240 days of continuous service with Party no. 1 and as such, he had acquired the status of permanent employee, but his service was not regularized and before terminating his service, Party no.1 did not follow the provisions of Sections 25-F and 25-G of the Act and juniors to the workman were retained in service by the Party No.1 and no reason was assigned by the party No.1 before terminating the service of the workman and the workman had completed 240 days of service in 1990 itself, which has been admitted by the Party No.1 in the written statement and thereafter also, the workman continued with the Party No.1 and the work was very much available with the Party No.1, even after the termination of the service of the workman and in view of the provision of Section 25-H of the Act, the workman is entitled for reappointment. In support of such contention, reliance has been placed on the decision reported in 1996 SCC - 1275 (Central Bank of India Vs. Satyam).

In the said decision, the Hon'ble Apex Court have held that provisions of Section 25-H of the Act is applicable to all retrenchment workmen and not only to those covered by Section 25-F read with section 25-B of the Act.

7. In reply, it was submitted by the Learned Advocate for the Party No. 1 that the workman has not prayed for reinstatement in service but only prayed for his reappointment as per provisions of Section 25-H of the Act and the workman was engaged purely on casual daily wages and temporary basis intermittently for menial work and he had not completed 240 days of work preceding the 12 months from the date when he left the service in December, 96, even though he had worked for more than 240 days in 1990 and in January, 2007, the workman joined the canteen managed by LIC, as a canteen boy and persons engaged by LIC are not employee of the Bank and as such, there was no master and servant relationship between the Bank and the workman since January, 97 and the Bank has specifically denied that the workman was disengaged from the service from 1-1-2002 and the workman is not entitled for any relief as his appointment was illegal and void, the same being done by the Manager without any authority and without following the due procedure for appointment in the Bank. In support of such contentions, reliance has been placed on the decisions reported in AIR 2006 SC- 1806 (Secretary, State of Karnataka Vs. Umadevi),

AIR 1996, SC - 1565 (State of Himachal Pradesh Vs. Suresh Kumar Verma), (2000) 5 SCC - 531 (State Bank of India Vs. State Bank of India Canteen Employees' Union), AIR 1966 SC - 75 (Employer in relation to the Digwadil Colliery Vs. their Workman) and AIR 2002 SC - 1147 (Range Forest Officer Vs. S.T. Hadimari)

8. In this case, it is the case of the workman that he had worked continuously from 1988 to 31-12-2001 and his service was terminated on 1-1-2002 and that he worked for 240 days in the year preceding his termination. The claim has been denied by the management. It is the case of the management that the workman was engaged intermittently from 1990 till 1996 and in 1997, the workman joined as a canteen boy in the canteen, managed by LIC and he had not worked for 240 days preceding the date on which he left the job of the Bank.

The Hon'ble Apex Court in the decision reported in AIR 2002 SC - 1147 (supra) have held that, "Onus lies upon claimant to show that he had in fact worked for 240 days in a year preceding his termination. In absence of proof of receipt of salary or wages or record of appointment, filing of an affidavit by the workman is not sufficient evidence to prove that he had worked for 240 days in a year preceding his termination."

In this case, besides examining himself, the workman has adduced some documents in support of his claim. The first document is a certificate granted by the Branch Manager of Thadipavani Branch of SBI. It shows that the workman worked for 245 days in 1990 and 60 days from 1-1-1991 to 30-6-1991. Documents W-V and W-VI show that the workman worked for 245 days in 1990, 81 days in 1991, 51 days in 1994, 22 days in 1995 and 111 days in 1996. No documentary evidence has been filed by the workman to show that the workman worked with Party No. 1 prior to 1990 or after 1996. It is the admitted case of the parties that the workman worked for 245 days in 1990. However, it is well settled that when a temporary employee is reappointed on a fresh basis, then his previous service cannot be taken into consideration. In this case, as the workman has failed to discharge the initial burden that he had worked for 240 days with Party No.1 preceding the 12 months from 1-1-2002, the alleged date of his termination from service as claimed by himself, the provisions of Section 25-F do not apply to his case. The workman has also not adduced any evidence to show that juniors to him were retained by the Party No.1, though his service was terminated. Rather, he has admitted that he has no knowledge if any other person or juniors to him have been engaged by the Party No.1 in his place. Hence, provisions of Sections 25-F and 25-G of the Act are also not applicable. In view of the materials available on record and the discussions made above, there is no need to discuss the other contentions raised by the party No.1. Hence, it is ordered:

ORDER

The action of the management of State Bank of India through its Dy. General Manager, Zonal Office, Region-II, Nagpur and Branch Manager, SBI, Thadipaoni, Taluka Narkher, Distt. Nagpur in terminating the services of Shri Mohan S/o Shri Santoshrao Wadarkar, ex-Messenger (Class-IV category) without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947 is legal and justified and whether the workman is entitled to get any relief as per the provisions of 25-H. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 2 जून, 2011

का.आ. 1733.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. एवं प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण नं. 2, धनबाद के पंचाट (संदर्भ संख्या 27/2004, 66/2004 और 67/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एल-22012/219/2003-आईआर (सी-II),

सं. एल-22012/218/2003-आईआर (सी-II),

सं. एल-22012/220/2003-आईआर (सी-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S.O. 1733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/2004, 66/2004 and 67/2004) of the Central Government Industrial Tribunal-No.2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 2-6-2011.

[No. L-22012/219/2003-IR (C-II),

No. L-22012/218/2003-IR (C-II),

No. L-22012/220/2003-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL (No. 2) AT, DHANBAD**

PRESENT : SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I. D. Act, 1947

Reference No. 27 of 2004

PARTIES : Employers in relation to the management of Food Corporation of India and their workman.

(Ministry's Order No.L-220012/219/2003-IR (CM-II) dated, 19-01-2004

With **Reference No. 66 of 2004**

PARTIES : Employers in relation to the management of Food Corporation of India and their workman.

(Ministry's Order No.L-220012/218/2003-IR (CM-II) dated, 12-5-2004

Reference No. 67 of 2004

PARTIES : Employers in relation to the management of Food Corporation of India and their workman.

(Ministry's Order No.L-220012/220/2003-IR (CM-II) dated, 12-5-2004

Appearances in Reference No. 66 of 2004 and reference No. 67 of 2004

For the management : Mr. B. M. Prasad, Advocate.

For the workman : Mr. D. K. Verma, Advocate.

Appearances in Reference No. 27 of 2004

For the management : Mr. Kalam Ansari, Manager.

For the workman : Mr. Ranbir Kumar, the concerned workman.

State : Jharkhand. Industry : Food Procurement.

dated, Dhanbad, the 16th May, 2011

AWARD

The Government of India Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act, 1947 has referred the following disputes to this Tribunal for adjudication vide their Order referred to above.

The Schedule in reference No. 27 of 2004.

“Whether the action of the management of Food Corporation of India, Bhagalpur in terminating the services of Shri Ranbir Kumar is legal and justified ? If not, to what relief the said workman is entitled ?”

The Schedule in reference No. 66 of 2004.

“Whether the action of the management of Food Corporation of India, Bhagalpur in terminating the services of Shri Dasarath Parsad Singh is legal and justified ? If not, to what relief the said workman is entitled ?”

The Schedule in reference No. 67 of 2004.

“Whether the action of the management of Food Corporation of India, Bhagalpur in terminating the services of Shri Ajay Kumar Sah w.e.f. 31-3-1996 is legal and justified ? If not, to what relief he is entitled to ?”

2. The case of workman Ranbir Kumar Singh in Ref. No. 27/04 is that he had been permanently working since his originally appointment against permanent vacancy in August, 1988. He had been rendering his service and produced goods for the benefit of and under the direct control and supervision of the Management since then still to its satisfaction, yet the Management called him as a casual workman, and it was not paid him his legal wages. He put in more than 240 days attendance in each calendar year. The management was paying him initially Rs. 16.90, later on Rs. 22.65 per day from December, 1991. His repeated representation to the Management for his regularisation, wages and other benefits at par with other employees of the management resulted the stoppage of his working orally from 31-3-96, which was also represented as illegal and arbitrary, yet without any effect. Later on, as per the direction/order dated 3-12-2002 of Hon'ble High Court, Patna in his Writ Petition, he approached the Conciliation Officer by raising an Industrial Dispute under Section 2A of the Industrial Dispute Act, but it failed for the adamant attitude of the Management which had pleaded that no employer-employee relationship existed between the workman and the Management which was vehemently objected by the petitioner as unfortunate, also producing sufficient documents in his support. On failure of the conciliation, the industrial dispute was referred for adjudication. The reference inadvertently bore his name Ranbir Kumar in place of his name Ranbir Kumar Singh. As such the action of the management in terminating his service was illegal, unjustified, vindictive, arbitrary, against the principle of natural justice anti labour policy and contrary to mandatory provision of Sec. 25-F of the Industrial Disputes Act.

3. Likewise are the replica cases of workmen Sri Dasrath Prasad Singh and Sri Ajay Kumar Sah in their References No. 66 and 67/2004 respectively. They also pleaded the raising of their industrial dispute as per order dtd. 3-12-2002 of Hon'ble High Court, Patna, by challenging their termination of their services by the FCI Management Bhagalpur as illegal and unjustified.

4. Whereas the case of the management as pleaded in all the references cases, specifically disputing their allegations, is that Mr. Ranbir Kumar Singh is and has never been an employee as construed under Section 2(e) of the I. D. Act vis-a-vis the FCI Management, so the present reference, much belated one being inconsistent with the provision under Section 10 of the said Act also with the facts and circumstances of the case, devoid of territorial jurisdiction in the terms of his alleged status of employment at Banka is not sustainable. The alleged workman neither can be called to be an employee of the FCI nor ever acquired any employment as also the right to continue in employment, the question of termination of his service becomes hypothetical and presumption.

5. Further pleading of the management on merits is that since the FCI being established under Section 3 of the FCI Act, 1964 is fully controlled and carried on by the Central Government, the process of recruitment under its recruitment policy states only against vacancy for the staff, for which the candidates on the receipt of their applications from the Employment Exchange have to undergo the prescribed tests to be held by the authorised committee and thereafter only the successful candidate is provided an appointment letter in writing containing the terms and condition of his service. But workman Ranbir Kumar Singh had never been an employee of the F.C.I. in accordance with the aforesaid prescribed test for any sanctioned vacancy, nor was issued any office order for it. So the alleged claim of alleged workman Ranbir Kr. Singh in lack of mention of any post, permanent or casual, nature of work, the payment of wages by whom rules out his any employment. If at all the alleged workman was one among those engaged by the contractor to carry out ancillary work of casual nature related to Quality Control Operation and its alleged work he must have been paid from time to time. The allegation of the workman about his continuous working for 240 days in each calendar year since 1988 in view of non-inclusion of his name in the alleged list of persons engaged for casual work from 1-9-83 to 31-3-90 as per the copy of the statement dtd. 11-7-90 is quite false. The workman raised not at all any dispute for non-receipt of legal wages, and the Writ Petition No. CWJC No. 3200/2001 filed by him and two others Ajay Kumar Sah and Dashrath Pd. Singh was rejected by Hon'ble Patna High Court. His claim is after though in support of which in course of fabricating records he did not verify the name written in the papers to be relied upon, so the purported papers containing his names both Ranbir Kr. and Ranbir Kumar Singh with signature in that style without any earlier declaration to the Management are fake and false.

6. Since the factum of Ref. No. 27/04 is the same and similar as the facts (facts) and laws of two Reference Nos. 66 and 67 of 2004 concerning workman Shri Ranbir Kumar (Singh), Deshrath Prasad Singh and Ajay Kumar Sah between both the respective parties related to termination of the workmen concerned, so both the latter References are taken up along with the present Reference Case for adjudication as the FCI is the common management and the Award of Ref. No. 27/04 will govern both the aforesaid latter reference cases.

7. The case of workman Dashrath Pd. Singh in Ref. No. 66 of 2004 similarly pleaded that he had been working as a permanent worker against permanent vacancy since his appointment in the month of August, 1988 by rendering service and producing goods under the direct control and supervision of the management by putting in more than 240 days attendance in each calendar year, but the

management illegally and unjustifiably terminated his service. As per direction of the Hon'ble Patna High Court passed on 3-12-2002 in his writ Petition, he has raised the Industrial Dispute for redressal of his grievance.

8. Whereas the management similarly specifically pleaded as stated above in the case of workman Ranbir Kumar Singh, specifically disputing the allegation as alleged by the workman concerned stating that the workman Dashrath Pd. Singh as per his statement dated 10-7-90 concerning the proof of casual worker for a specified period does not support his claim for putting his attendance for 240 days in each calendar year. So his claim is illegal and unjustified.

9. Similarly the pleaded case of Ajay Kumar Sah in his Reference Case No. 67/04 is the reply of the case of the workman Ranbir Kumar Singh in Ref. No. 27/04 and in response to it the management accordingly but specifically pleaded that the workman Ajay Kumar Sah is not entitled to any relief.

FINDING WITH REASONS

10. On the perusal of the materials available on the respective case records, I find that in Ref. Case No. 27/04, WW-1 Ranbir Kumar Singh, the workman himself on his behalf and MW-1 Gautam Kumar, MW-2 Syed Saukat Hussain, MW-3 Dinesh Prasad, MW-4 Siyaram Sharma, MW-5 K. C. Mishra, MW-6 Ganesh Rabidas and MW-7 Kalam Ansari on behalf of the management have been examined.

In Ref. No. 66/04, WW-1 Dashrath Prasad Singh, the workman himself on his behalf, MW-1 Md. Kalam Ansari and MW-2 Syed Saukat Hussain have been examined, and in Ref. No. 67/04, WW-1 Ajay Kumar Sah, the workman himself on his behalf and MW-1 Md. Kalam Ansari, MW-2 Syed Saukat Hussain on behalf of the management have been examined.

11. From the over all perusal of the materials available on the respective case records of the workman concerned, I find that the facts being admitted are indisputable :—

- (i) None of these three workmen had any letter of appointment as casual worker.
- (ii) None of the workmen had any proof regarding registration of their names in the Employment Exchange.
- (iii) These three workmen had filed C.W.J.C. No. 2300/01 and M.J.C. No. 496/2003 before the Hon'ble Patna High Court and as per direction of the Hon'ble High Court they filed their respective Reference cases for adjudication after raising their industrial dispute before the Assistant Labour Commissioner (Central).

12. In view of the same and similar nature of the Industrial Dispute, all the workmen namely, Ranbir Kumar Singh, Dashrath Prasad Singh and Ajay Kumar Sah have put their reliance on their following documents, which are only photo copies thereof in support of their respective claim for regularisation in their respective cases :

- (i) The photo copies of the Attendance register for the period from April 1994 to March, 1996 (Ext. W-1 series) under the signature of Chhatrapati Yadav and Mr. B. Pandit, the Head Watchman and the Depot Incharge (Ext. W-1) (with objection in Ref. No. 66/04).
- (ii) The photo copies of different Bills for the said period (W-2 series) known as casual labours bills under the signature of aforesaid Mr. B. Pandit, the Depot Incharge concerned, Banka (with the objection and (Ext. W-6 series) and
- (iii) The copies of acquittance rolls (Ext. W-3 series).

All these aforesaid documents in copies appears to be related only to these three workmen, whose attendances marked as 'P' (presence) and 'A' (absence). As regards the copies of all the aforesaid documents, WW-1 Ranbir Kumar Singh in his reference 27/04 in his cross-examination has admitted not to have taken permission for taking the photo copies of the Attendance Register (voluntarily stated that one Tara Singh, the District Manager had told them to keep photo copies of the documents) but on his verbal permission for the documents. It is also indisputable that these documents bear the signature of aforesaid Mr. B. Pandit (Biseswar Pandit), Assistant Depot Superintendent who was the Depot Incharge.

13. On going through evidences of both the parties, I find that the oral averments of WW-1 Ranbir Kumar Singh, Dashrath Pd. Singh and Ajay Kumar Sah (each as WW-1 in Ref. Case No. 66 and 67/2004 respectively) the workmen themselves in quite similitude are that all of them had been continuously working as casual workers since their appointment in the godown of FCI Bhagalpur (Banka) in August, 1988 upto March, 1996 against permanent vacancies by putting their own attendances for more than 240 days in each year which was recorded by the Assistant Depot Manager, who used to prepare their Bills and used to send the same to the District Manager, Bhagalpur for clearance and thereafter they used to draw their wages from the management. It is also stated by them that since their services were exploited by the management for years together. They requested the Management to regularise them as Class IV Staff, but without considering it, the management stopped them from their working from 31-3-1996/1-4-1996 though their daily wages was Rs. 16.90 upto 1991 which was enhanced to Rs. 22.65. Hence, they raised this Industrial Dispute for adjudication.

14. During the cross-examination, aforesaid WW-1 Ranbir Kumar Singh by expressing his ignorance of whether Chhatra Pati Yadav, the Head Watchman had authority to sign or countersign the alleged aforesaid Attendance Register (Ext. W-1 series), has admitted that the names of other casual labours working with him were mentioned in the Register i.e. aforesaid workmen Ajay Kumar Sah and Dashrath Prasad Singh, that he was 17 years old at the time of his joining the FCI in 1988, and he belongs to Mokameh Mr. B. Pandit also belongs too. But the witness namely, Ranbir Kumar Singh has denied to his engagement appointment through backdoor in the FCI and he filed all the false and fabricated documents for his claim.

Dashrath Prasad Singh (WW-1 in Ref. No. 66/04) in his cross-examination has admitted to have known the certain procedures to be followed for any appointment in the FCI/Govt. Department, for which the names are called for from the Employment Exchange, but he had no documents for his appointment by whose order rather he claims to have been appointed as Casual Labour as per oral order of the management though his brother Ranbir Kumar Singh (above named workman) had also filed a case. According to him (Dashrath Prasad Singh) the payment of wages through vouchers without approval of the competent authority is not effected and the approved vouchers accompanying with the bill of the wages of the workmen concerned. He has admitted that none of the documents carries the Memo. No., Voucher No. or any approval, that the documents under Ext. W-2 series in Photo copies were given to him by the then aforesaid Watchman Chhatra Pati Yadav of the FCI though he (Dashrath Prasad Singh) failed to establish the writer of the aforesaid documents which were written on the plain papers not in the Bill Form, and that aforesaid Depot Manager (Mr. B. Pandit) belongs to AG-I (Assistant Grade) Depot.

Ajay Kumar Sah, (WW-1 in Ref. No. 67/04) in his cross-examination has admitted not to possess any documents as proof for getting his employment as casual labour in August, 1988 though he claims to have known about the payment of wages is done on a stamp as per daily work and the casual workers are kept whenever required. He himself stated to have worked regularly, though occasionally he works whenever he gets it for living.

15. On the other hand, out of seven MWs (Management Witness) including Md. Kalam Ansari examined in the main Reference No. 27/04, aforesaid Kalam Ansari has also been examined as MW-1 in Ref. Nos. 66/04 by the management and 67/04 on the perusal of their statements, I would like to precisely place their statements/ evidences for due consideration as under :

MW-1 Gautam Kumar, the Assistant (Accounts) working from April, 1983 was posted as Assistant Grade-II in the District Office Bhagalpur from Aug. 1982 to 1996,

expressing ignorance of whether Ext. W-1 series, (the copies of attendance Register for 1994 to March, 1996) as genuine or not, he asserts that any paper sent to the district Office from Depot bears Ref. No. and date, that the Head Watchman is not authorised to countersign or to check the attendance Register and the Depot Incharge is also not authorised to engage any casual or daily rated worker and that the Ext. W-3 series (the copies of acquittance rolls for the said relevant period) do not contain Ref. No. and date accordingly, as every bill should be accompanied with a forwarding letter having Ref. No. and date ; moreover, advance payments are made to the Depot Incharge for depot purpose on the requisition of the depot incharge.

MW-2 Syed Saukat Hussain is the Technical Assistant who was posted at Bank depot (Bhagalpur) from 1987 to 1991, proving the FCI Management Attendance Register (1991 to Jan 1992- pages 2 to 14) as Ext. M-1 which was issued from the Bhagalpur Office, has affirmed that there is not any further attendance in any form except this being maintained. He has also proved the Carbon copy of the letter (dated 29-2-92) as Ext. M-2, written by the Depot Incharge B. Pandit bearing Reference No. and date. It proves no letter is issued by the depot without mentioning the Ref. No. and date as well as the subject. To him a Bill must contain a forwarding report and details of work done in addition to it a certificate of the work done. He had not engaged Ranbir Singh workman as Casual worker during his posting there though the witness on the display of Ext. W-2 series and Ext. W-1 series has stated the possibility of the signature of Mr. B. Pandit, yet he clearly stated that whenever there is a reck (rack) placement even on the Holidays the work is done after taking approval from the District Management.

MW-3 Dinesh Prasad, retired Assistant Manager (Accounts), Bhagalpur, FCI District Office from May, 1991 to May/June, 1994 has also corroborated the evidence of aforesaid Syed Saukat Hussain (MW-2) about the process of passing the Bill subject to the approval of the competent authority and the bills are accompanied with the forwarding to the Accounts Office and thereafter they are passed by the District Manager. He has stated that the bills (under Exts. W-2 and W-2/1) have no forwarding letters, but he had not seen Ext. W-3 series (the copies of Acquittance Rolls) except Ext. W-3/1 (Acquittance rolls dated 14-1-94) which was marked as Ext. W-3/17 (on identity of his own signature. It bears the name of Ranbir Kumar only. According to this witness, the acquittance roll is prepared by the Cashier and the Office puts his signature, but the bills as per Ext. W-3 series (Acquittance Rolls) are not as per the format and similarly the bills under Ext. W-2 series are neither in proper format nor bear proper signatures. This witness has proved the signature of his own, of Shri R. Sharma, Assistant Manager (Accounts), his own and the signature of B. Pandit as Ext. W-3/17 affixed to Ext.

W-3/1, Exts. W-3/18-20 respectively. But I find none of the aforesaid Extt. Except the last i.e. Ext. W-3/20- the signature of Mr. B. Pandit under which Ext. W-3/15 (the payment of wages for March to June, 92) concerns the receipt of wages by Dashrath Pd. Singh, Ranbir Kumar Singh and Ajay Kumar Sah for their wages for the period 21, 16 & 16 days respectively.

MW-4 Siyaram Sharma, retired Assistant Manager (Accounts), District Office Bhagalpur (1982-1986 and has asserted that these bills which are Exts. W-2 series were not presented before him. According to this witness as per the Circular dated 2-5-1986 (its copy marked as 'X' for identification) issued by A.K. Pandey, the then Personnel Manager and circulated by the signature of Shri S. S. Roy, all the casual labour on the strength of the FCI may be regularised but thereafter should not be engagement of casual worker/labourer whatever the circumstances may be, so by this circular, all the casual labours working in the FCI who met the terms and conditions of the aforesaid Circular, were absorbed in the year 1986. So it was a complete ban on the engagement of casual worker. He has also stated that by that documents as Ext. W-3/18 under his signature it does not appear who was paid whereas Ext. W-3/2 (the payment of wages of casual labour) concerning the payment of wages to the workmen for few specified days does not bear any his signature and of endorsement. he has also stated the possibility of the signature of B. Pandit on the Ext. W-2 series (on display). He has admitted that even after the issuance of circular dated 2-5-86 still the casual labourers are working in the office though these workmen's engagement during the year 1988 to 1996 is beyond his knowledge, and that no hard and fast rule regarding the issuance of any engagement letter was followed in Bhagalpur.

MW-5 K. C. Mishra, who was posted at Josidih after two or three days of his joining at Bhagalpur, FCI District Office in July 1989 working as Technical Assistant Grade-I has stated that during his posting at Josidih, Banka Depot of FCI was tagged with Josidih for quality control works he was looking after and there Baldeo Singh and R.L. Marandi were performing the job of spraying chemical for treatment of the foodgrain as Dusting Operator working since before his joining. To this witness, only the Senior Regional Manager was authorised to appoint upto Class III staff i.e. Cat. IV and III staff but the Depot Officer had no authority to appoint either of the staff, and Ranbir Kumar Singh while working as Helper to Dusting Operator Banka Depot before and after my joining but only one Attendance Register used to be maintained for the purpose of attendance of the employees. The Depot Incharge was engaging the casual worker for casual work. The witness has identified the signature of B. Pandit as signed in Ext. M-1 tallied with his signature on the photo copies of Ext. W-1 series which were marked as Ext. W-6 series.

MW-6 Ganesh Rabidas posted as Assistant Grade-III from 13th September, 1985 to 18th March, 1990 at Bank a has stated that Mr. B. Pandit joined as Depot Incharge in 1988-89 and at that time he was also engaging casual worker but he had not seen whether Ranbir Kumar Singh was working as Casual Labour during his tenure, while only one attendance register was maintained for Class III and IV who used to put their own attendance. So the claim of Ranbir Kumar Singh is not correct. He has asserted that 14 labourers as contractor labourers were working in the Godown while he was working at the weighing machine. He particularly mentions the Ext. W-3/1 (copies of acquittance rolls for August, 1994) as an incorrect bill because the bills require the signature of the person prepared it and the signature of the Accounts Officer passing the bill and the signature of the District Manager which are lacking in the bill.

The avertment of MW-7 Md. Kalam Ansari as Manager (IR), who has been examined as Management witness in both the Ref. No.61 and 67/2004 is that during his tenure as AG-II and I in 1993 to 2002 posted in the Labour Section of the District Office Bhagalpur, there was complete ban for the engagement of the Casual labour since circular issued in 1986 by the Head Quarters, after which no casual labour was engaged and all the Exts. W-1 to W-13 (copies of Attendance Register for 1994-1996 were manufactured document and the bill of the labourer was paid within a week after passing through AG, then the Labour Inspector, the Manager (Accounts) and then lastly the District Manager. He also asserted Ext. W-2 series being without the signature of his as well as other Officers, as such bills of the casual labour were not submitted, has a certificate is required by the Depot Incharge about the purpose of the duty the casual worker was engaged. He also expressed the possibility of preparation of the document (marked X and X/1 for identification) by aforesaid B. Pandit, the Depot Incharge in favour of Ranbir Kumar Singh for his entry in the service. To this witness, Ext. W-3 series (copies of acquittance rolls for the aforesaid period 1994-1996) do not bear the signature of the persons, Officer and the staff who were authorised to pass the bills and the Banka Depot was closed due to flood in 1995.

Similar version of aforesaid Md. Kalam Ansari as MW-1 in both the aforesaid rest cases in connection with the workmen concerned though he has proved the original letters of the Assistant Depot Superintendent B. Pandit to the District Manager, FCI Bhagalpur as Ext. M-1 series and four vouchers of wages for the months of Nov., Dec., Sept. and Oct. 1991 as Ext. M-2 series which are admittedly without official signature (the latter series i.e. Ext. M-2 series). But his version about the arising the question putting 240 days of attendance (in a year) concerning the workmen in lack of cross-examination by them remains in tact.

Besides that I find the statement of aforesaid Syed Saukat Hussain as MW-2 in the aforesaid letter both the cases, namely, Ref. No. 66 and 67 of 2004 has asserted as he recalled that only three or four persons occasionally worked but these labourers never worked during his tenure, and that only on representation to the depot the District Manager the FCI get staff required for working at the depot in exigency for two or three days at the sanction from the District Manager Office for the payment of their wages.

16. Mr. D. K. Verma, the Learned Advocate for the workmen concerned having relied upon the authorities : 1982 SCC (L & S) 124, 203 SSC (L & S) 380, 205 SSC (L & S) 716 and (209) 1 SSC L & S 55 with reference to Section 25F, Section 2(s) and 25-B of the Industrial Disputes Act, 1947 has contended/argued that a workman employed on a part-time basis but under the control and supervision of an employer is a workman in the terms of Section 2(s) of the Act and is entitled to claim the protection of Section 25F of the Act.

17. Whereas Mr. B.M. Prasad, the Ld. Advocate for the management relying upon the authority 2006 (Vol.IV) SSC I, Secretary, State of Karnataka versus Uma Devi as held therein, has submitted that the Hon'ble Apex Court in the decision has been pleased set out the requirement of public employment i.e. there must be sanctioned vacancy, advertised and application be routed through Employment Exchange and the applicant must undergo the process of selection but in the present Reference cases all the workmen have admitted not to have gone through the aforesaid requirements of their employment.

18. On the consideration of the aforesaid findings and also in view of the submissions made by the Ld. Counsels for the respective parites I find that the documents Ext. W-1 series -I the copies of attendance Register for the year 1994 to 1996, Ext. W-2 series- the copies of different bills and Ext. W-3 series -the copies of Acquittance Rolls for the said relevant period these workmen have relied upon for their claim palpably appear to be extraneous documents of impeachable character rendering their continuous engagement too improbable to believe their continuity in service as a casual labour rather, none of the documents fulfil their maintenance in the natural course of the conduct of the management as per Exts. M-2 rather as per the admitted signature of the depot Incharge, Mr. B. Pandit, Banka as Ext. W-3/20 (over Ext. W-3/15) proves the worker Dashrath Prasad Singh, Ranbir Kumar singh and Ajay Kumar Sah to have received their wages for the month of March 1992 to June, 1992 as a casual labourer of ARDC Banka. Under these circumstances I find and hold that since all the workmen concerned had not got appointment as per the rules, so there cannot be legal relationship of Master and servant between the

employer and the workman, therefore the question of their termination of their services namely, Ranbir Kumar Singh, Dashrath Prasad Singh and Ajay Kumar Sah does not arise. However the action of the management of FCI Bhagalpur in stopping/terminating their services is quite legal and justified. None of the workmen is entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 2 जून, 2011

का.आ. 1734.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्पकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 188/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एल-22012/385/1998-आईआर (सी-II)]
डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S.O. 1734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 188/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NCL and their workmen, which was received by the Central Government on 2-6-2011.

[No.L-22012/385/1998-IR (C-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/188/99

PRESIDING OFFICER: SHRI MOHD. SHAKIR HASAN

The Secretary,
Colliery Mazdoor Sabha (AITUC),
Q.No.B-202, PO Amlohari Colliery,
Distt. Sidhi (MP) Workman

Versus

The General Manager,
Amlohari Project of Northern
Coalfields Ltd.,
PO Amlohari colliery,
Distt. Sidhi (MP)

....Management

AWARD

Passed on this 10th day of May, 2011

1. The Government of India, Ministry of Labour vide its Notification No.L-22012/385/98/IR(CM-II) dated 4-5-1999 has referred the following dispute for adjudication by this tribunal:—

“ Whether the action of the General Manager, Amlohari Project of Northern Coalfields Ltd., PO Amlohari Colliery, Distt. Sidhi (MP) in not protecting the substantive pay of Sh. R.M.P. Mishra on his reassignment due to injury on duty is legal and justified ? If not, to what relief is the workman concerned entitled ?”

2. The case of the Union/workman in short is that the workman Shri R.M.P. Mishra was appointed as Driver Category-V in the year 1985. Later he was selected as Dumper Operator Grade-II w.e.f. 1-4-87. He was allowed to draw difference of wages of Dumper Operator Grade-I as he was operating higher Capacity dumper w.e.f. 1-4-88. On 30-11-87 while he was on duty he met with an accident and was admitted in the NCL Hospital Singrauli. After discharge from the hospital on 6-12-87, he joined his duty but Officer advised him to do light work. He was assigned the work of Clerk Grade III/Tripman and was performing the duty of clerk Grade-III/tripman. He regularly went for checkup to the NCL Hospital. On 9-7-88, he was referred for medical checkup to Medical College, Rewa. After checkup he was found that he was suffering from Epilepsy. The Doctor of the Medical College, Rewa advised the management to give him light work. The management issued an order dated 9-8-92 whereby he was selected as clerk Grade III. Accordingly he submitted his joining report as clerk Grade III requesting therein for protection of pay. It is stated that the pay of Dumper Grade III was more than the post of Clerk Grade III. The management passed an order dated 19-10-1992 fixing his pay at the initial of the clerk Grade III scale of pay contrary to the circular/orders of NCL ignoring the request of protection of pay. The workman never opted to work as clerk Grade III. He was willing to operate the dumper after accident. It is stated that similarly on the ground of decease, others pay had been protected. It is submitted that the reference be answered in favour of the workman.

3. The management appeared and filed Written Statement. The case of the management, interalia is that admittedly he was appointed on 27-8-85 as Driver Cat- V and was selected to the post of Dumper Operator Grade II w.e.f. 1-4-87. He was getting difference of wages of Dumper Operator Grade I as he worked higher capacity Dumper. Admittedly he met with an accident while on duty on 30-11-87 and was treated at NCL Hospital. He was engaged temporarily on light duty as Tripman on the advise of the

Doctor. Later he was referred to Medical College, Rewa for specialized treatment. He was temporarily declared unfit from his original job as he was suffering from Epilepsy. Lastly he was permanently found unfit for Dumper Operator by Apex Medical Board. It is opined by the medical Board that it is a generalized epileptic activity and not a localized activity due to Trauma. It was not due to the said injury sustained in accident. On his request the management provide him the job of Clerk Grade III on 9-8-92 vide order No. 567 dated 19-10-92 instead of terminating him on the ground of unfit in the job. The Union also agreed to regularize the workman as clerk Grade III. The Union also agreed to recover the wages paid of the Dumper Operator during the period he worked as Clerk Grade III. Accordingly the excess payment was recovered. It is submitted that the action of the management is justified.

4. On the basis of the pleadings of both the parties, the following issues are for adjudication-

I. Whether the action of the management in not protecting the substantive pay of the workman on his reassignment due to injury on duty is legal and justified ?

II. To what relief, the workman is entitled ?

5. The following facts appear to be admitted by the parties in their pleadings-

1. The workman Shri R.M.P. Mishra was initially appointed as Driver Category V in the year 1985.
2. He was thereafter selected as Dumper Operator Grade II w.e.f. 1-4-87. He was also doing work of higher capacity and as such he was getting difference of wages of Dumper Operator Grade-I.
3. He met with an accident on duty and was treated in NCL Hospital, Singrauli.
4. He was temporarily found unfit and was engaged temporarily on light duty as Tripman on advice of the Doctor.
5. He was further checked up in the Medical College, Rewa and was found that he was suffering from Epilepsy.
6. Lastly he was permanently found unfit by the Apex Medical Board on account of Epilepsy.
7. He was provided light job of clerk Grade III on 9-8-92.
8. His pay was fixed at the initial stage of the scale of pay of clerk Grade III.
9. He was not given the benefit of protection of pay on the ground of decease of Epilepsy.

6. Issue No. I

Now the evidence is to be examined to determine that the workman is entitled to get the benefit of protection of pay. Two grounds are raised by the Union/workman. The first ground is that he met with an accident on duty causing him suffering from epilepsy. The second ground is that if the disease of epilepsy was not related to injury caused to him, even then he was entitled for pay protection as has been provided to other employees namely Shri George Koshy, Shri R.D.Patel and Shri B.K.Singh. On the other hand, the contention of the management is that the wages may be only protected for specific period for temporary unfit for the job on recommendation of the company's Medical Officer in case of accident on duty. Secondly there is no provision for pay protection to become unfit on suffering from any disease to the employee who has been offered alternative job.

7. The Union/workman has adduced oral and documentary evidence. The documents are not specifically denied by any of the parties. The Union/workman has filed Paper No. P-1. This is circular No. 4/1992 dated 25/26 June 1992 whereby there is a procedure of pay protection to the employee to whom light duty is provided. This circular shows that in case of accident on duty, the worker may be given light duty on recommendation of Company's doctor for specified period and for this period only his pay/wages may be protected. This shows that it is for temporary period if light duty is given. In case of permanent disability on assessment by the Company's Medical Officer compensation is to be paid and if re-employed on lower scale on compassionate ground after payment of compensation, he is to be paid wages for the post in which he is engaged. The paper No. 8/11 filed by the management clearly shows that the workman was found permanently unfit due to epilepsy which was not by the injury caused in accident on duty. Thus it is clear that the said circular is not applicable to the workman to claim wage protection on assignment light duty as Clerk Grade-III.

8. The workman Shri R.M.P.Mishra has stated in his evidence that he had not filed any appeal against the opinion of the Medical Board. His evidence further shows that on the report of Medical Board, he was entrusted light duty. The letter of the Chief Medical Officer (Paper No. 8/11) shows that injury was not caused for declaring him permanent unfit rather epilepsy was the cause for declaring him unfit permanently. Thus it is clear that the circular No. 4/1992 dated 25/26 June 1992 is not applicable in his case.

9. Another ground is that other employees had been given similar benefit of wage protection in light job though they had been declared medically permanently unfit. The management contention is that they were of different

project of different places and there is no provision to protect the wage on assigning light duty. There is specific pleading of the Union/workman that Shri George Koshi, Shri R.D.Patel and Shri B.K.Singh who were also suffering from permanent type of illness, were provided light duties and their pay were protected. The order dated 28-3-06 passed by the then Tribunal directed the management to produce documents relating to those employees but those documents were not produced. Adverse inference is to be drawn against the management. Admittedly they were also the employees of the NCL and the circular and orders were similar to those employees as well. The management witness Shri Ramesh Singh has admitted that circular is applicable in Amlohari and Kakri Project alike. Another management witness Shri Ramesh Bhardwaj has stated at para-10 that there is provision of pay protection and all the three employees were given the benefit of pay protection in accordance with the provision. The Union/workman has filed photocopies of the office orders of those employees which are paper Nos. 11/4, 11/5, 11/6, P-II and P-III. These documents clearly show that Shri George Koshy was suffering from "Spondylosis" of the Lumber 4/5 vertebra, and Shri R. D. Patel was suffering from hearing problem. The wages of these employees were also protected by the management on entrusting them light duty. The case of this workman is similar to those workmen who are also of NCL and the circular and others are similar to every employee. I find that there is clear discrimination between the employees of the same company for the reason best known to the management and therefore the management appears to be not justified in not protecting the substantive pay of Shri R.M.P.Mishra on his assignment as duty of light job. This issue is decided in favour of the Union/workman and against the management.

10. Issue No. II

On the basis of the discussion made above, it is clear that the workman Shri R.M.P.Mishra is also entitled for getting the benefit of pay/wages protection on joining light duty on the Medical Board Recommendation. The management is directed to fix the pay of the workman protecting the pay on joining light duty as clerk Grade III from the date of his joining and to pay the difference of arrears thereof within two months from the date of award. Accordingly the reference is answered.

11. In the result, the award is passed without any order to costs.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 2 जून, 2011

का. आ. 1735.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर, के पंचाट (संदर्भ संख्या 58/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एल-22012/398/1990-आई आर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S. O. 1735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 58/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 2-6-2011.

[No. L-22012/398/1990-IR (C-II)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT /NGP /58/2003 Date: 16-05-2011

Party-No.1 : The Sub Area Manager,
Pipla Group of Mines, W.C.Ltd.,
P.O. Pipla, Distt. Nagpur.

Versus

Party No. 2 : Shri S.K.Rafique,
Secretary, Koyala Shramik Sabha
(HMS), Pipla Mine, Qr. No.689,
Walni Colony, Tah. Saoner, Distt.
Nagpur.

AWARD

(Dated: 16th May, 2011)

This reference had been made by the Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) (here-in -after referred to as "the Act") for adjudication of the industrial dispute between the employers in relation to the management of Pipla Colliery of W.C.Ltd, Nagpur and their workman, Shri Ramrao Daulat Mohale (here-in -after referred to as "the workman") to CGIT, Jabalpur as per letter No.L-22012/398/90-IR(C-II) dated 21-3-1991, with the following schedule :—

"Whether the action of the management of Pipla group of Mines of M/s Western Coalfields Ltd., Nagpur, in terminating the services of Shri Ramrao Daulat Mohale is justified? If not, to what relief the workman concerned is entitled to?"

Subsequently, the case was transferred to the Court of CGIT, Nagpur for disposal according to the law.

2. Being noticed, the union Koyala Shramik Sabha (HMS), Pipla Mines ("the union" in short) filed the statement of claim on behalf of the workman, Shri Ramrao Daulat Mohale ("the workman" in short) and the management of Pipla Colliery of W.C.Ltd, Nagpur ("the Party No.1" in short) filed the written statement.

The case of the workman as per the statement of claim is that the union is a registered trade union, registered under the provisions of Trade Union Act, 1926 and the workman was appointed as a casual mazdoor on 23-4-1968, at the age of 22/23 years at Silwara Colliery, which was owned and managed by National Coal Development Corporation Ltd. and though the minimum age for recruitment at that time in any colliery of NCDC Ltd. was 25 years, the workman was appointed at the age of 22/23 years and an identity card was issued by the NCDC Ltd. to the workman showing his date of birth as 1-2-1947, on the basis of the original birth certificate/school leaving certificate submitted by the workman, before the Manager of Silwara Colliery and in 1973, there was nationalization of the coal mines and all the coal mines were taken over by the Central Government and Coal India Ltd. was formed and WCL is one of the subsidiaries of CIL and at the time of such taken over of the mines, the attendance registers and B- Form registers of Silwara Colliery were either destroyed or burnt and as such, at the time of formation of CIL, and WCL, the new company was having no authentic record of date of birth of the workers and as such, the management prepared the B- Form registers afresh and indicated the date of birth of the employees either as 1st July or 16th July and the workman was informed by the Party No.1 by letter dated 1-1-1990 that he would be superannuated on 1-7-1990, but did not inform his date of birth or as to how he would be of the age of 60 years, which means that the Party No.1 had no authentic date of birth record of the workman and as such, the action of the Party No.1 in retiring the workman pre-maturely without attaining the age of superannuation was highly illegal and amounted to termination before completion of his service and the elder brother of the workman, Marut Rao Daulat Rao Mohale is three years elder to the workman and he is working under Party No.1 and to be retired in 2003 and according to the school leaving certificate, his (workman's) date of birth is 1-2-1947 and as such, he should have been retired on superannuation on 1-2-2007, but he was to retire 17 years prior to the reaching of the age of superannuation and in the month of June, 1989, he first came to know

about his date of birth to have been wrongly recorded in the service record and his age was mentioned as 38 years at the time of his appointment and therefore, he met the Mines Manager of Pipla Mines and requested to correct the date of birth, according to his school leaving certificate and as the Manager asked him to submit documents, he obtained the duplicate copy of the Transfer certificate on 31-7-1989 from Savneer School and submitted the same alongwith an affidavit for correction of date of birth but his date of birth was not corrected and even the implementation circular No. 76 of JBCCI for determination/ verification of age was not followed and his subsequent applications to correct his date of birth also did not yield any result and he was compelled to retire prematurely on 1-7-1990. The workman prayed to hold the action of the Party No. 1 as illegal and unjustified and to direct the Party No. 1 to correct his date of birth in the service records and to reinstate him in service with all consequential benefits.

3. The Party No. 1 in its written statement pleaded inter-alia that the reference is not an industrial dispute within the meaning of Section 2 (k) of the Act and the service of the workman came to an end on attaining the age of superannuation i.e. 60 years, based on the date of birth got recorded by the workman himself as 1-7-1930 in "B" Form register and as such, the reference made by the government is bad-in-Law and subject matter of retirement cannot constitute an industrial dispute in terms of the Act. It is further pleaded by the Party No. 1 that the union is not entitled under law to raise the dispute and the workman had been in employment since 23-4-1968 formerly in Silewara Colliery and later in Pipla Colliery as looseman and at the time of entering into service, the workman had given his age as 38 years and accordingly in "B" Form register the date of his birth was recorded as 1-7-1930 as per his declaration and the workman also endorsed the entry by signing the same and with the amendment of the Mines Act, the said Form "B" register was prepared afresh in the new form in 1984 and the workman signed the said register accepting the entries therein including his age and he had never disputed his date of birth till 1989 and on 28-11-1981, a notice was displayed by it inviting objections from all the employees if any, to the entries made in the 'B' form register regarding the date of birth and in spite of such notice, the workman did not raise any objection regarding his date of birth and on 28-4-1987, all important service particulars including date of birth recorded in the colliery record were communicated to the workman and the workman confirmed about the correctness of the said entries by putting his signature in the remarks column in connection with the same, without any objection and as the age of superannuation is 60 years as per service conditions, the workman was retired from service w.e.f. 1-7-1990 on attaining the age of superannuation and as its action is legal and justified, the workman is not entitled for any relief.

4. In support of his claim, besides relying on documentary evidence, the workman examined himself as a witness. In his examination-in-chief, he has reiterated the facts mentioned in the statement of claim. However, in his cross-examination, he has admitted that he does not know the contents of the affidavit filed by him as the same is in English and at the time of his appointment, he was given an identity card as well as a service book. He has admitted that the form "B" register bears his signature alongwith his photograph and he submitted application for correction of his date of birth three months prior to his retirement and he did not apply for change of his date of birth earlier to the same.

5. The Party No. 1 has not adduced any oral evidence. However, it has relied on the documents regarding the service records of the workman.

It is necessary to mention here that since 23-9-2008, neither the workman nor the union representative appeared in the case and as such, the argument from the side of the management was heard ex-parte against the workman.

7. Though the workman has stated in his examination-in-chief, which is on affidavit that he joined the service on 23-4-1968 at the age of 22/23 years and in 'B' form register and in the identity card issued to him, his date of birth was mentioned as 1-2-1947, basing on the original birth certificate produced by him before the Manager of Pipla Colliery, no such documents have been filed. Though the workman pleaded that his elder brother is working in the mines and his elder brother is three years elder to him and his elder brother will retire in 2003, the workman did not examine his elder brother to prove such facts. On the other hand, he has admitted that form 'B' register maintained by the Party No. 1 bears his signature and his photograph is also affixed to the same. It is found from the said 'B' form register, which has been marked as Exh.M -4 that the year of birth of the workman has been mentioned as 1930 and his age has been mentioned as 38 years as on 23-4-1968. It is also found from the documents filed by the Party No. 1 that on 28-11-1981, the Party No. 1 had issued a notice directing the employees of Pipla Mines to submit objection, if any, regarding the age shown in the 'B' form register alongwith an extract of the age shown in the said register and in spite of such notice, the workman did not raise any objection. It is also found from the documents that on 24-8-87, the service excerpt of the service particulars including the date of birth was supplied to the workman with a direction to submit the same with objection if any, regarding the particulars mentioned in the same and in the said excerpt, the date of birth of the workman was mentioned as 1-7-1930 and the workman did not raise any objection to the entry regarding his date of birth and submitted the form after signing the same,

without raising any objection. The documents filed by the Management clearly show that the date of birth of the workman was recorded as 1-7-1930 in the service records and the workman did not raise any objection regarding such date of birth, even though, there were several opportunities for him to raise objection and to make correction of the date of birth. He has also admitted his date of birth as 1-7-1930 by signing the excerpt supplied by the management and so also the form "B" register.

It is well settled by the Hon'ble Apex Court that the claim for correction of the date of birth of an employee at the fag end of the employment is not maintainable. The workman filed an application to correct the date of birth at the fag end of his service career and that too after the service of notice of superannuation. Hence, the management rightly did not entertain such an application. Hence it is ordered:

ORDER

The action of the management of Pipla Group of Mines of M/s Western Coalfields Ltd., Nagpur, in retiring the workman, Shri Ramrao Daulat Mohale from services on superannuation (not in terminating the services as mentioned in the schedule of reference) is justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 2 जून, 2011

का. आ. 1736.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर, के पंचाट (संदर्भ संख्या 144/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एल-22012/153/1991-आई आर (सी-II)]

डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S. O. 1736.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 144/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 2-6-2011.

[No. L-22012/153/1991-IR(C-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/144/2000

Date: 24-05-2011

Party No. 1 : The Sub Area Manager,

Rajur Sub Area, Western Coalfields Ltd.,
Wani Area, Yevatmal Dist., Maharashtra

Versus

Party No. 2 : Shri Nathu Bapurao Khanzode,
C/o P.N. Reware, Post-Rajur, Tah. Wani,
Dist. Yevatmal

AWARD

Dated : 24th May, 2011

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government had referred the industrial dispute between the employers, in relation to the management of Rajur Sub Area Manager of Western Coalfields Limited, Wani Area and their workman, Shri Nathu Bapurao Khanzode for adjudication to the Central Government Industrial Tribunal-cum-Labour Court No.1, Mumbai, as per letter No.L-22012/153/91-IR (C-II) dated 24-7-1991, with the following schedule :—

"Whether the termination of services of Shri Nathu Bapurao Khanzode, Loader by the Sub Area Manager, Rajur Sub Area, Western Coalfield Limited, Wani Area, Dist. Yevatmal from 19-6-1990 is justified and legal? If not, to what relief the workman is entitled?"

Subsequently, the reference was transferred to this Tribunal for disposal in accordance with law.

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the workman, Shri Nathu Bapurao Khanzode ("the workman" in short) filed his statement of claim and the management of Rajur Sub Area WCL ("the Party No.1" in short) filed its written statement.

The claim of the workman is that while he was working as Loader with Party No.1, on 9-3-90 the Party No.1 issued a charge sheet against him and he filed his explanation to the charge sheet on 19-3-90 and as according to the Party No.1, his explanation was found not to be satisfactory, a departmental enquiry was conducted against him and one Shri D.K. Chandok, Senior Personnel Officer, Rajur Sub Area was appointed as the Inquiry Officer and the enquiry was conducted against the principles of natural justice, without giving him reasonable opportunity and the allegations as mentioned

in the charge sheet were held to be proved against him and on the basis of the report of the Inquiry Officer, his services were terminated by the Party No.1, vide order dt.13-6-90 and the termination of his service is totally illegal, because he was not allowed to appoint a co-worker to defend his case, though there is provision for the same in the certified standing orders and according to the Inquiry Report, he attended the enquiry on 7-6-90 alongwith his co-worker, Shri K.S.Wadekar, but actually he had not appointed Shri Wadekar as his co-worker and Shri Wadekar was shown as his co-worker unauthorisedly by the Party No.1 and the departmental enquiry was conducted against him without any co-worker and no opportunity was given to him by the Inquiry Officer to defend his case properly and the Inquiry Officer in his report has mentioned about his accepting the charges alleged against him but the Inquiry Officer had never asked him any question regarding acceptance or denial of the charges mentioned in the charge sheet and he had never accepted the charges leveled against him and it is clear from the materials that the management had a pre-plan to terminate his service and as such, the Inquiry Officer submitted his report in favour of the management. The workman has further pleaded that he was not allowed to cross-examine the witness produced by the management and he was not allowed to produce any document and witness in support of his defence and the Inquiry Officer prepared fraudulent documents with the clear intension to prove the charges against him and the departmental enquiry was not conducted impartially but, with malafide and bias motives and the Inquiry Officer acted in combination with the management and as per the inquiry report, the enquiry was conducted by the Inquiry Officer on 7-6-90 at 4.00 O'clock and the termination order was prepared on 9-6-90 and delivered on 13-6-90, which goes to prove that the departmental enquiry was conducted very hastily and as such, the termination of his service is nothing but purely a case of victimization. The workman has prayed to declare the order of termination is illegal and to set aside the same and for his reinstatement in service, with full back wages and other benefits and continuation of service.

3. The Party No.1, in its written statement has pleaded inter-alia that the order of reference not being an industrial dispute in terms of Section 2(k) of the Act is not maintainable, because the workman did not take up the matter or put forth his grievance if any, about termination of his service with the employer at any point of time and in terms of standing orders applicable to Rajur Colliery, the workman had the right of appeal against the order of termination before the Appellate Authority and as the workman did not submit any appeal to the Appellate Authority and did not exhaust the remedy, the reference is also not maintainable. The further case of the Party No.1 is that Rajur Colliery is a subsidiary company of Coal India

Limited and is engaged in mining of coal and its marketing and Government of India has declared the Coal Industry as a public utility industry and as such, the persons engaged in the colliery are supposed to conduct themselves with discipline and to give their best in the interest of the nation and as such, violation of disciplinary rules and habitual absenteeism by the employees in the industry cannot be viewed lightly and the workman was working at Rajur Colliery as Tub Loader, before the termination of his service w.e.f. 13-6-90 and on examination of the relevant records, it was found that the workman had put in only 95 days of attendance in the year 1989 and was in habit of abstaining from duty, without prior information and permission of the competent authority and as the said fact constituted misconduct in terms of standing orders applicable to him, the workman was issued with a charge sheet dt.9-3-90 and in the charge sheet, the charges and relevant clauses of the standing order were clearly mentioned and as the explanation submitted by the workman was found unsatisfactory, the management decided to conduct the departmental enquiry and appointed Shri D. K. Chandok as the Inquiry Officer to conduct the enquiry and the workman was also duly intimated to participate in the enquiry, alongwith his witnesses and documentary evidence on 4-4-90 and it was also mentioned in the letter issued dt. 24/26-3-90 to bring his co-worker or union representative to represent and assist him in the enquiry, if so wants and the workman did not take any objection to the appointment of Shri Chandok as the Inquiry Officer and as on 4-4-90, the workman remained absent, the Inquiry Officer by his notice dt. 5-4-90 fixed the enquiry to 12-04-90 at 4.00 P.M. in his office and in the notice, the Inquiry Officer again advised the workman to participate in the enquiry along with his witnesses and documentary evidence and co-worker and on 12-4-90 also, the workman remained absent, so the Inquiry Officer fixed the enquiry on 7-6-90, by his notice dt. 2-6-90 and the workman was also advised to attend the inquiry on 7-6-90 alongwith his witnesses and documentary evidence and his co-worker and on 7-6-90, the workman appeared before the Inquiry Officer alongwith his co-worker, Shri K. S. Wadekar and the management examined one witness and produced Bonus register of the relevant period in support of the charges, in presence of the workman and his co-worker and they were given full opportunity to cross-examine the management witness and the workman examined himself in his defence, but did not produce any other witness or documentary evidence, so the enquiry was closed with the consent of the workman and his co-worker and the enquiry was held in Hindi language, the language known to the workman and his co-worker and the workman and his co-worker did not take any objection either in the course of enquiry or thereafter, regarding the functioning of the Inquiry Officer and also in respect of the procedure adopted by him in the enquiry and the Inquiry Officer, after conclusion of the

enquiry, submitted his report by giving findings based on the detailed analysis of the evidence available on record, holding the charges to have been proved against the workman beyond doubt and the Superintendent(M)/Manager of Rajur Colliery after applying his mind to the connected papers, documents and findings of the Inquiry Officer, forwarded the records and findings to the Sub Area Manager alongwith his views and the Sub Area Manager after going through the record of the enquiry proceedings agreed with the findings of the Inquiry Officer and by application of his mind and taking into account the gravity of the charges proved against the workman, decided to impose the punishment of termination of service of the workman, so letter dtd. 13-6-90 was issued by the Sub Area Manager, Rajur terminating the service of the workman with immediate effect, and the action of the management in terminating the services of the workman is legal and justified and the inquiry was conducted properly and in a fair way by observing the principles of natural justice and the report of the Inquiry Officer was based on the evidence on record and the action of the management being legal, just and fair, does not call for interference and the punishment imposed against the workman is also just and proper and not shockingly disproportionate to the prove serious misconduct and the findings are also not perversed.

4. As this is a case of termination of service after holding a departmental enquiry, the validity of the departmental enquiry was considered as a preliminary issue and by order dtd. 15-12-2006, order was passed by this Tribunal holding the enquiry to be proper, legal and in accordance with the principles of natural justice.

5. At the time of argument, it was submitted by the learned advocate for the workman that despite hazardous working conditions in the underground mine, the workman tried his level best to perform work for maximum days and in 1989, the workman was suffering from stomach disorder and other physical problems for which, he was required to take medical treatment from the doctor of WCL and also to take medical leave and the said medical leave were recorded in the muster roll, which was maintained by the Party No.1 and is in possession of Party No.1 and the muster roll containing the records of casual leave, paid leave, leave without pay and medical leave etc. was not produced by the management during the enquiry and the management instead of producing the muster roll, produced the bonus register which does not have the record of the leave availed by the workman during the period in question and basing on the extract of the bonus register, the Inquiry Officer held the charge of absenteeism to have been proved against him and due to non-production of the muster roll, the vital document to prove the misconduct in respect of the absenteeism against the workman, the findings of the Inquiry Officer can be held to be without any basis and perverse and the

Inquiry Officer also did not consider the reply of the workman to the charge sheet while concluding the charges of absenteeism to have been proved against the workman and on that ground also, the findings of the Inquiry Officer are perverse and in the enquiry, the record of only for one year i.e. 1989-90 was considered and the workman was on medical leave in that year and on considering the record of only one year, coming to the conclusion that the workman was a habitual absentee is erroneous and the imposition of punishment of dismissal is shockingly disproportionate and the workman was not given the scope to produce the past service record and without giving any opportunity to the workman, the conclusion arrived at unilaterally by the party no. 1 is bad and in violation of the principles of natural justice and as such, the order of dismissal is illegal and arbitrary and the charge of absenteeism is a minor and technical misconduct in nature, as held by the Hon'ble Apex Court and Hon'ble High Courts and therefore the punishment of dismissal from service is too harsh and shockingly disproportionate and as such, the order of dismissal is liable to be set aside and the workman is entitled for reinstatement with continuity of service and full back wages.

In support of such contention the learned advocate for the workman placed reliance on the decisions reported in 2006 (109) FLR 1169 (Karnataka High Court) (Smt. Bale Chennamm Vs Managing Director, K.S.R.T.C., Bangalore and another), 2003 III CLR 394 (Andhra Pradesh High Court) (Mohd. Nizamuddin Vs General Manager and Appellate Authority Bank of India), 2001 III CLR 1063 (Allahabad High Court) (L/NK Musaffir Yadav Vs Commandant 47 Ba CRPF Gandhinagar), 2000 LLR 999 (Calcutta High Court) (Mohd. Mia Vs State of West Bengal), 1991, SSC (L & S) 612 (Union of India Vs Mohd. Ramzan Khan), 2010 (126) FLR 994 (SC) (Indubhusan Dwivedi Vs State of Jharkhand) and 1994 III LLJ (Suppl.) 1111 (M. S. University Baroda Vs R. S. Thakkar).

6. On the other hand, it was submitted by the learned advocate for the Party No. 1 that while considering the question of the validity of the enquiry, the allegations of the workman regarding violation of principles of natural justice was duly considered and it was held that the departmental enquiry held against the workman to be just, proper and the principles of natural justice had been observed and therefore, the very basis for wrongful termination on the ground of alleged victimization does not stand and as regard the quantum of punishment, the workman has not made any pleading in the statement of claim and as such, the issue does not require any consideration and the punishment must be deemed to be legal and proportionate to the charge and irrespective of the above position, it is clear from the documents produced by the Party No. 1 that the workman was a habitual absentee and his total attendance during the year 1989

was 92 days and the workman had accepted the charges levelled against him during the course of enquiry by stating and admitting that he had worked for only 92/95 days during the year without any information to the management and he did not produce any evidence to show the reason for his unauthorized absence and as habitual misconduct being of serious in nature, the management was fully justified in terminating his service. In support of such contentions, reliance was placed by the learned advocate for the management on the decisions reported in AIR 1965 SC - 155 (Total Oil Mills Co. Ltd. Vs. the workmen), AIR 1970 SC - 1334 (M/s Parry & Co. Ltd. Vs P.C. Pal), AIR 1972 SC - 2182 (M/s. the Banaras Electric Light and Power Co. Ltd. Vs the Labour Court-II), 2001 LABIC-2367 (Syed Rahimuddin Vs Director General, CSIR and others) and 2008 LABIC-415 (SC) (M/s. L&T Kamatsu Ltd. Vs N. Uday Kumar).

7. On perusal of the materials on record including the proceedings of the departmental enquiry, charge-sheet submitted against the workman and the show-cause submitted by him, it is found that the workman had admitted to have work for 92/95 days during the year 1989. His explanation for remaining absent for the rest of the working days was that he was till during the said period. However, except his own oral evidence, he did not produce any other evidence in support of his illness. He had also not stated that he had applied for any kind of leave for his such absence. Hence, there was no need for the management to produce the muster roll to prove the charges levelled against the workman. In view of the plea taken by the workman, the burden was on the workman to show that due to illness he could not able to attend his duties and he had duly applied for leave for his such absence but he failed to do so. Hence, I find no force in the contentions raised by the learned advocate for the workman that due to non-production of the muster roll, to hold the findings of the Inquiry Officer to be perverse. It is found from the record that the findings of the Inquiry Officer are based on the materials available on record of the departmental proceedings and reasons have been assigned in support of such findings. Hence, it is held that the findings are not perverse.

8. So far the decisions cited by the learned advocate for the workman are concerned, with respect, I am of the view that the same have no application to the present case at hand, as the facts and circumstances of the cases referred in the said decisions are quite different from the facts and circumstances of the case at hand.

In the decision reported in 2006(109) FLR - 1169 (supra), the Hon'ble Court held the major penalty of dismissal to be shockingly disproportionate, as Disciplinary Authority relied upon the past conduct of unauthorized absence but such material for past conduct was not produced before the Labour Court. In the present

case in hand, the Disciplinary Authority did not rely upon the past conduct of unauthorized absence of the workman while imposing the punishment.

In 2003 III CLR-394 (supra), the Hon'ble Court held the punishment of dismissal from service of the petitioner to be unwarranted, after examination his unauthorized absence with reference to his option for pension on voluntary retirement. The facts of the present case at hand are not similar to the facts of the case referred in the decision and in this case question of voluntary retirement is not involved.

The case referred in 2001 III CLR-1063 (supra) is a case of overstay of sanctioned leave and not a case of habitual absenteeism, as in the present case in hand.

With respect, I am of the considered view that the case referred in the decision 2000 LLR-999 (supra) can be distinguishable and not applicable to the present case at hand. In the present case at hand, it is found from the proceedings of the departmental enquiry that the Inquiry Officer asked the management representative to present the case of the management and to produce evidence in support of the same and the management representative presented the case of the management. However, the statement of the management representative was recorded by the Inquiry Officer as a statement of witness. In this case, the charge-sheet was not submitted by the management representative. There was also admission of the workman regarding his remaining absent from duty and only performing 95 days of work in 1989.

So far the judgement of Hon'ble Apex Court as reported in 1991 SCC (L&S)-612 is concerned, it is well settled that the direction given by the Hon'ble Apex Court in the said decision is applicable from 20-11-90. In the present case in hand, the order of termination of the service of the workman was passed on 9/13-6-90, much prior to the cut off date. Hence, with respect, I am of the view that the said judgement is not applicable to the present case at hand.

In this case, no contention has been raised that the past adverse record of the workman was taken into consideration without giving the workman any notice. Hence, in my considered view, the decision of the Hon'ble Apex Court as reported in 2010(126) FLR-994 (supra) has no application to the present case at hand.

9. In the decision reported in 2008 LAB IC 415 (supra), the Hon'ble Apex Court have held that :

"Industrial Disputes Act (14 of 1947), S. 11A - Punishment imposed by Disciplinary Authority - Interference - Termination of service - Charge of unauthorized absence - proved in enquiry which was fair and proper and in accordance with principles of natural justice - Setting aside of order of termination by Labour

Court and High Court and directing reinstatement of employee - not proper".

Applying the principles enunciated by the Hon'ble Apex Court in the above stated decision to the present case in hand, it is found that in this case also the charge of unauthorized absence against the workman has been proved in an enquiry, which was fair and proper and in accordance with the principles of natural justice. Hence, the order of termination of the service of the workman cannot be said to be shockingly disproportionate to the serious misconduct charged and proved against the workman. Hence, there is no scope to interfere with the punishment imposed against the workman. Hence, it is ordered :

ORDER

The termination of services of Shri Nathu Bapurao Khanzode, Loader by the Sub Area Manager, Rajur Sub Area, Western Coalfield Limited, Wani Area, Dist. Yevatmal from 13-6-1990 is justified and legal. The workman is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 2 जून, 2011

का. आ. 1737.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल एम. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 38/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एल-22012/229/2007-आई आर (सोएम-II)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S. O. 1737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of M/s. Mahanadi Coalfields Limited, Nandira Colliery of M/s. MCL, and their workmen, received by the Central Government on 2-6-2011.

[No. L-22012/229/2007-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present : Shri J. Srivastava, Presiding Officer
C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Industrial Distute Case No. 38/2007

Date of Passing : Award -13th May, 2011

Between :

The Management of :-

(1) The Chief General Manager,

Talcher Area, M/s. MCL,

P.O. Dera Colliery, Dist. Angul.

(2) The Project Officer,

Nandira Colliery of M/s. MCL,

P.O. Balandia, Dist. Angul, Orissa

1st Party-Managements

And

Their Workman Shri Jayakrushna Sethi,

Qrs. No. MQ-312, Nandira Colliery,

P.O. Balandia, Dist. Angul, Orissa.

2nd Party-Workman

APPEARANCES :

None : For the 1st Party-Managements.

None : For the 2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute existing between the employers in relation to the management of M/s. MCL and their workman in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide their letter No. L-22012/229/2007-IR (CM-II), dated 30-10-2007.

2. The dispute referred, as mentioned in the schedule is reproduced below :

"Whether the action of the Management of M/s. MCL in dismissing Shri Jayakrushna Sethi w.e.f. 1-08-2000 is legal and justified? If not, to what relief is the workman entitled?"

3. The 2nd Party-workman in pursuance of the letter of reference did not file any statement of claim. Therefore, notice to the workman was issued twice. He took time on two occasions and thereafter without filing the statement of claim remained absent. Later his wife appeared and reported about his death. An application for substitution of her name in place of her deceased husband was given. On hearing, her application was allowed subject to direction that she shall move proper substitution application arraying all the LRs of the deceased 2nd Party-workman since the latter had left "behind him five living persons namely his wife, three sons and one married daughter. But no proper substitution application was moved by his wife Smt. Bhama Sethi till this date. Hence this reference is left without any claimant. The deceased workman could not file his statement of claim within a time span of more than 14 months when he remained alive.

Now there is no case history laying background to the claim of the deceased workman. Therefore the claim of the deceased workman cannot be looked into and adjudicated upon by this Tribunal as it is not in a position to give any finding on the dispute as detailed in the schedule of the letter of reference.

4. The reference is accordingly returned to the Government of India for necessary action at their end.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 2 जून, 2011

का. अ. 1738.—ओक्सीजिक विवाद अधिनियम, 1947 (1947 का 14) की आरा 17 के अनुसरण में, केन्द्रीय सरकार डॉक्यू. सी. एल. के प्रबंधनीय के संबंध विवेचकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओक्सीजिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारक/अधिकारी न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 55/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एस-22012/298/2000-आई आर (सी-II)]
डी.एस.एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S. O. 1738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.55/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 2-6-2011.

[No. L-22012/298/2000-IR (C-II)]
D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/55/2001

Date: 25-05-2011

Party No. 1 : The Sub Area Manager,
Western Coalfields Ltd.,
Makardhokada Sub Area,
Umre Umre Makardhokada,
Tah. Umre, Distt. Nagpur

Versus

Party No. 2 : The President,
Koyala Shramik Sabha (HMS),
B.Q.W.C.Ltd., Qr.No.B-53, Umre,
Tah. Umre, Distt. Nagpur

AWARD

(Dated : 25th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947, (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of WCL and the workman, Shri Vijay Bhagwat Bhunge for adjudication, as per letter No.L-22012/298/2000-IR (C-II) dated 08-08-2001, with the following schedule:—

"Whether the action of the management of WCL through its Sub Area Manager, Makardhokada Sub Area Tah. Umre, Distt. Nagpur in not paying I.O.D. wages to Sh. Vijay Bhagwat Bhunge, Khalasi for the period of his inability arising out of an accident while on duty is legal and justified? If not, to what relief the said workman is entitled to?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the union, "Koyala Shramik Sabha (HMS)" ("the union" in short) filed the statement of claim on behalf of workman, Shri Vijay Bhagwat Bhunge ("the workman" in short). The management of Sub Area Manager of Western Coalfields Limited, Makardhokada Sub Area ("the Party No.1" in short) filed its written statement.

The case of the union as per the statement of claim is that the workman is a member of their union and the workman was appointed as Haulage Khalasi in regular employment of the party No.1 with clean and excellent service record and on 28-10-1989, the workman met with an accident, while on duty, as some coal pieces fell on his left eye causing injury to his left eye, due to snapping of the belt in the surface mine and he was immediately rushed to Walni Hospital and was hospitalized there for about 8 days and thereafter, he was under treatment in the OPD and therefore, he could not able to attend his duty for about 45 days and the Superintendent of Mines, in his report dt.30-10-89 had stated about the accident in details and the workman was also paid the wages on account of the injury sustained by him on duty, till 15-2-90 and on 16-2-90, the Doctors of party no. 1 deliberately declared the workman fit for underground duties and the union pointed out to the management about the workman not able to see with his left eye, due to non-vision in it and as such, how he was declared fit by the Doctors but the workman received a communication dt.17/18-12-91, from the office of the Superintendent of Mines through the Personnel Officer, to appear before the Area Board at Jawaharlal Nehru Hospital at Kamptee at 19-12-91 at 9.00 A.M. and on receipt of the communication, the workman went to the hospital, but there was no communication to the workman regarding the assessment made by the Board.

The further case of the union is that the workman was sent to Mayo General Hospital for further treatment on 19-4-93 and during the course of the treatment, Dr. P. Waghe of Mayo General Hospital issued the certificate dt.26-4-93 stating therein that due to the injury, the vision of the left eye of the workman was 6/60 and the vision of his right eye was 6/9 and the workman was advised not to work in darkness, but despite the same, the party no. 1 ordered the workman to work in the underground mines and as the workman was under the treatment for complete blindness in his left eye caused due to the accident, he could not attend his duty in the underground mines and no surface duty was allotted to the workman by the party no. 1 and party no. 1 also did not pay him the wages of "injury on duty", for the period from 16-2-90 to 2-3-94 and though the workman was working as Haulage Khalasi on 28-10-89, he was ordered by his superiors to work as belt operator and the workman came to be transferred to Makardhokada Sub Area as per order dt.2-2-94 and since then, he worked as Haulage Khalasi, whereas he should have been transferred as a belt operator and on the date of the accident, his post was shown as category-IV belt operator with the intention to hide the irregularity committed by the party no. 1 and when the matter was taken by the union with the management, management gave reply in negative and it was stated that on 18-10-89, the workman did not sustain any injury on his left eye, while on duty and his eye sight was lost due to suffering from eye disease and such statement of the management was totally unwarranted and against the principles of natural justice and therefore the workman is entitled to get the wages of injury on duty for the period from 16-2-90 to 2-3-94.

3. In its written statement, the party no. 1 has admitted that the workman was in its regular employment as a Haulage Khalasi and on 28-10-89, the workman did not sustain any injury in his left eye while on duty, due to snapping of the belt and there was no accident at all and the injury report of Superintendent of mines dt.30-10-89 is a forged document and the Superintendent of mines had never sent any report in this regard and the workman was not paid any wages on account of "injury on duty" till 15-2-90 and the workman got himself checked from the doctors for his vision problem and the doctors after due check up of his eyes declared him fit for underground duties and nothing had happened to the left eye of the workman due to any accident and the allegations made by the workman are false and the workman wanted the duty of belt operator to avoid underground duty and to get the duty of the belt operator, he played a false game and manufactured a story of accident and injury to his left eye and vide letter dt.17/18-12-91, the workman was directed to attend the Area Board on 19-12-91 at 9.00 am and he was found fit for underground duties and it had never sent the workman to Mayo General Hospital for treatment

on 19-4-93 and as the complaint of the workman was regarding his eye sight, the same was required to be examined by an Ophthalmologist and as such, the workman was referred to the Area Medical Officer with whom the Ophthalmologist was available and after examination, he was found of having no injury in his left eye and he was found fit to join duty and the report of the doctor were binding upon the workman and the management and payment of wages of "injury on duty" does not arise at all, as no injury was caused to the left eye of the workman in the accident and the workman was working as Haulage Khalasi and he was not directed on 28-10-89 by his superiors to work as belt operator and he was never compelled to do the work of belt operator and the workman was transferred to Makardhokada Sub Area as per order dt.2-2-94 and since then, he is working as Haulage Khalasi and there was no question of transferring him as a belt operator and as such, the workman is not entitled to any relief.

4. The workman has examined himself as a witness in support of his claim. He has reiterated the facts mentioned in the statement of claim. The workman has not been cross-examined by the management.

No evidence, whatsoever, has been adduced by the management.

5. Perused the record. The copy of the injury report submitted by the Superintendent of Mines, Pipla Colliery has been filed by the workman. On perusal of the said report, it is found that on 28-10-89 at 1.30 A.M., the workman was injured while on duty and due to snapping of the belt, some pieces of coal fell on his left eye and his left eye was injured. It is also found from the documents that the management had also asked him to appear before the Area Medical Board on 19-12-91 at 9.00 A.M. at Jawaharlal Nehru Hospital, Kamptee. In view of the unchallenged testimony of the workman and the documents filed by him, it is found that the left eye of the workman was injured, while he was on duty and as such, he was entitled to get the wages for the period from 16-2-90 to 2-3-94, wages on account of "injury on duty". Hence, it is ordered :

ORDER

The action of the management of WCL through its Sub Area Manager, Makardhokada Sub Area Tah. Umrer, Distt. Nagpur in not paying I.O.D. wages to Sh. Vijay Bhagwat Bhunge, Khalasi for the period of his inability arising out of an accident while on duty is not legal and the same is unjustified. The workman is entitled to get IOD wages for the period of his inability i.e. from 16-2-90 to 2-3-94. The party No. 1 is directed to pay the said wages to the workman within one month from the date of publication of award in the official gazette.

J. P. CHAND, Presiding Officer

नई दिल्ली, 2 जून, 2011

का.आ. 1739.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सीआई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण पुने (महाराष्ट्र), के पंचाट (संदर्भ संख्या 01/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-6-2011 को प्राप्त हुआ था।

[सं. एल-22012/17/2004-आई आर (सी एम-II)]

डी. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S. O. 1739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 01/2005) of the Industrial Tribunal Pune (Maharashtra) as shown in the Annexure, in the Industrial Dispute between the management of FCI, and their workmen, received by the Central Government on 2-6-2011.

[No. L-22012/17/2004-IR (CM-II)]

D. S. S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE INDUSTRIAL TRIBUNAL MAHARASHTRA AT PUNE

Reference (IT) No. 01 of 2005

Food Corporation of India,
94/102 South Main Road,
Koregaon Park, Pune-1. First Party

AND

Smt. Nirmala Khasgiwale,
570, Narayan Peth, Pune-30 Second Party

In the matter of reinstatement

CORAM : M.G. Choudhary, Presiding Officer.

Appearances : Smt. S.Londhe, Advocate for first party.
Shri A.Y. Shikarkhane, Advocate for
second party

AWARD

23-11-2010

The Central Government in exercise of powers conferred under Section-10 R/w. Sub.Sec-1(b) of the Industrial Disputes Act, 1947 referred the industrial dispute between abovenamed parties for its adjudication by this Tribunal. The dispute which is referred for adjudication reads as under :—

“Whether the action of the management of Food Corporation of India, Pune in terminating the services of Smt. Nirmala Jaywant Khasgiwale, A.G (Grade III) w.e.f. 19-3-96 vide letter dtd. 6-12-99 is legal and justified? If not to what relief she is entitled?”

2. The second party workman in her statement of claim at Exh.U-3 contended that, she was in the employment of first party for 22 years, initially appointed at Dewas (Madhya Pradesh) and she was transferred to Pune in the year 1985 after her marriage. According to the second party workman her service record was clean & unblemished. It is contention of the second party workman that the first party had issued charge sheet dtd. 28-8-98 alleging the willful and deliberate disobedience of the lawful orders of transfer order dtd.20-4-94 from Pune to Ahmednagar. According to the second party workman the said order was never served upon her. It is contention of the second party workman that it was alleged in the said charge sheet that she remained absent continuously from 19-3-96 onwards. It is contention of the second party workman that she participated in the enquiry, the procedure of enquiry was not explained to her and the proper and reasonable opportunity to defend was not given to her. According to the second party workman enquiry was not legal, fair and proper because the rules and regulations regarding the transfer were not supplied to her and the copies of the G.R. governing the transfer policy were not supplied to her. According to the second party workman, the first party directed the second party to appear before the Superintendent of Sasson General Hospital and get herself medically examined. The relevant medical certificate was submitted to the first party and it was mentioned therein that the second party was not fit to join the duties at Ahmednagar. According to the second party workman after two sittings of enquiry all of sudden the place of enquiry was changed to Shivdi (Mumbai) without consent of second party. The expenses for such a long travel or journey were not paid or offered to her. The enquiry officer did not grant the requested time sought for genuine reasons. According to the second party workman the cross-examination of witnesses were not permitted to be taken in Marathi, thus the enquiry officer without giving reasonable opportunity to defend the enquiry officer recorded the findings. According to the second party workman the enquiry officer held charge no.1 is not proved and also held that the absenteeism from 18-7-94 to 18-3-96 was not unauthorized and enquiry was completed on 30-3-99 and the enquiry officer submitted the findings on 31-8-99 i.e. After five months and on 6-12-99 the first party terminated the services of the second party and after her termination she is not gainfully employed. On this background it is contention of the second party workman that her termination from service is illegal and unjustified and lastly requested to allow the reference.

3. The first party in his detailed written statement at Exh. C -6 contended that Food Corporation of India is a

Government of India undertaking formed by an act of Parliament namely The Food Corporation of India Act, 1964. The main object performed by first party is to undertake the purchase, storage, movement, transport, distribution and sale of foodgrains and other foodstuffs and with the previous approval of the Central Government take the steps for promoting production of foodgrains and other foodstuffs and perform the required functions regarding fertilizers. According to the first party the appointment, service terms & conditions of the employees are governed by FCI Staff regulations, 1971 and administrative rules and regulations contemplated from time to time from head quarter, New Delhi and Central Civil Services Rules and GR issued in the name of the President of India from time to time which are binding on all the employees of the Corporation and as per the said enactment governing the administration of FCI the employee aggrieved and dissatisfied with any orders of the Disciplinary Authority is at liberty to approach the appellate authorities mentioned in the said Act. According to the first party the Act governing the service terms & conditions of the employees of FCI being the special enactment prevails over the other existing laws. However the second party workman willfully had not exhausted the departmental channels for the redressal of her grievances with the appellate authorities as per the said Act. Thus according to the first party the second party has no locus standi to prefer the present Reference before the court and this court has no jurisdiction to entertain the present Reference.

It is also contention of the first party that the Central Administrative Tribunals established under the Administrative Tribunal Act is a special forum for the redressal of the grievance of the employees whose service terms & conditions are governed by Central Civil Services Rules, therefore as per the constitutional provisions of Art- 323A, this court has no jurisdiction to try and entertain present Reference. It is denied that the second party workman was in the employment of first party for 22 years. According to the first party, the second party workman was initially appointed in Food Corporation of India, Dewas-(MP) as Asstt. Grade-III(D), however she was transferred to Pune FCI in the year 1985 on her own willingness. It is denied that the second party had served with honesty and sincerely and her service record is clean and unblemished. According to the first party the charge sheet dtd. 28-8-98 was issued to the second party workman in which allegations were levelled against the second party. It is denied that the transfer order dtd. 20-7-94 from Pune to Ahmednagar was never served upon the second party workman. According to the first party the second party was continuously absent from her services from 18-7-94 till inflicting the penalty of compulsory retirement from services upon her after the legal and proper enquiry proceedings conducted against her vide final order dtd. 6-12-99. It is denied that in the enquiry no fair and proper opportunity

was given to her. It is denied that second party workman is nowhere gainfully employed after her termination as alleged. According to the first party due to increase in storage capacity at Ahmednagar, it was decided to post depot staff there from Pune office on rotation basis. Accordingly transfer of the employees at Pune office were effected on rotation basis. The second party workman was transferred from District office Pune to FSD Ahmednagar on rotation basis vide order dtd. 20-7-94 and was relieved from her House keeping section of FCIDCO Pune vide order dtd. 28-7-94, however in anticipation of transfer the second party went on medical leave from 18-7-94 onwards. According to the first party the transfer order dtd. 20-7-94 and relieving order dtd. 28-7-94 were sent to her by RPAD which were "not claimed" by her as per the remark of P & T department thus as per the existing legal provisions the said RPAD is presumed to be legally served on second party workman. Thereafter a telegram dtd. 24-8-94 was sent by the department to the second party workman informing her about her transfer and relieving order. It is contention of the first party that the second party workman was served with charge sheet under regulation 58 of FCI Staff Regulations 1971 by Sr. regional Manager Maharashtra and two articles of charges were framed against the second party and thereafter enquiry was held. According to the first party the preliminary enquiry was also held and after issuing the charge sheet enquiry was held initially at Pune and thereafter enquiry was fixed on 30-3-99 at Shivdi, Mumbai and second party workman was duly informed, however on 30-3-99 the second party workman failed to appear before the enquiry officer, therefore the enquiry was proceeded ex-parte and evidence of PW-3 on behalf of first party was recorded.

The second party also made representation for adjournment on 30-3-99. It is contention of the first party that second party workman did not attend the enquiry proceedings at Mumbai but her husband attended therefore she did not apply for TA DA to meet the expenses. The enquiry officer recorded his findings and accordingly punishment of compulsory retirement from service was inflicted on second party workman by the first party. It is contention of the first party that, second party workman was informed to collect the dues vide letter dtd. 11-1-2000, thus according to the first party the second party had received the total amount of Rs. 3,03,852 under the head of gratuity, provident fund and salary for the period 17-7-94 to 14-12-99 and the said amount was received without any protest by the second party workman. Thus according to the first party the action taken against the second party is just, legal and proper and lastly requested to dismiss the Reference.

4. The following issues are framed in the matter at Exh.06 by my Ld. Predecessor which arise for my determination—

- (1) Whether the action of first party in terminating the services of second party w.e.f. 19-3-96 is legal and justified?
- (2) What is the effect of findings on Issue No.1 ?
- (3) To what relief if any second party is entitled to ?
- (4) What award?

My findings to above issues for the reasons recorded below are as under -

- (1) No;
- (2) As per order below;
- (3) Reinstatement with continuity of service;
- (4) Reference is answered partly in affirmative as per order below.

REASONS

5. Both the parties have produced the documents on record. The second party union gave notice of documents, the first party gave inspection of documents to the second party and the inspection report is submitted by the second party at Exh. U-9 and the documents are also produced by the first party in the matter with list Exh.C-12 & C-13.

6. The second party in order to prove her case deposed in the matter at Exh. UW-1 and filed the documents in relation to alternative employment after termination vide list Exh.U-11. The second party in her affidavit at Exh.UW-1 stated the same thing as per her stand in her statement of claim Exh.U-3. In cross-examination questions were put to her about earlier services and she has stated that she is educated upto B.A. and before joining the services of first party she served as teacher in school for two years at Dewas. The questions were put to her about her employment with the first party at Dewas and transfer at Pune and again transfer to Ahmednagar. She has admitted that as per order dtd. 20-7-94 she was transferred to Ahmednagar. She has further stated that, she never joined at Ahmednagar till her compulsory retirement. The questions were put to her about correspondence with the department in English language. Questions were put her about medical certificates. The questions were put to her about memos given to her during the - preliminary enquiry, departmental enquiry, charge sheet. The questions were put to her by the Advocate for first party in respect of documents produced with list Exh.C-12 which are enquiry papers and most of these documents are exhibited and she has denied other suggestions given to her in cross-examination.

The first party has examined Mr. D .K. Pachouly, at Exh. C-24 and in his examination in chief by way of affidavit he has stated the same thing as per stand of first party in

written statement and also in his further examination in chief he has stated about the documents produced on record with list Exh.C -12 and most of those documents are exhibited. In cross-examination the witness of the first party has stated that the second party was holding a civil post. FCI Staff Regulation 1971 are notified by the Central Government and he is not aware about the details of gazette and notification. He has not seen the gazette. He has further stated that Central Civil Services Rules were applicable to the first party establishment since 1965 and he can produce the copy of Central Civil Rules before the court. He has stated that the second party was transferred to Ahmednagar, that order was received by the second party as it was sent to her address and she refused to accept the same. He has stated that as the second party refused the transfer order, therefore it amounts to receive. He has stated that the order was sent on 28-7-94 on that day the second party was on leave and thereafter she did not joined the duty at Pune or Ahmednagar. The questions were put to him about medical certificates which are already exhibited at Exh. C-12/K and he has denied other suggestions given to him in the cross-examination.

7. With the help of this oral and documentary evidence on record I have heard the argument of Advocates for both the parties at length and both of them have submitted their case as per material on record. In addition to that the Advocate for the first party in support of her argument relied on the case law reported in 2008-6-Bom.C.R-894, RS Korvi (Ms) V/s. Peico Electronics & Electricals Ltd.; AIR-2008-SC -1162. West Bokaro Colliery of M/s. TISCO Ltd. V/s. Ram Parvesh Singh; AIR-2006-SC -856. State of Rajasthan V/s. Mohammed Ayub Naz; AIR-2005-SC-3417. V Ramana V/s. APSRTC & Ors.

Considering the ratio of the case law and considering the facts of the present case I am deciding this Reference.

8. Before dealing with the merits of the matter, I would like to decide some preliminary objections of the first party as taken in written statement. The first party contended that Food Corporation of India is an undertaking Government of India and terms of service conditions of the employees working with first party are governed by FCI Staff Regulation 1971 and Administrative Rules Regulations contemplated from time to time and Central Civil Services Rules and GR issued by the President in that behalf which are binding on all the employees of the corporation. This is a stand taken by the first party in written statement at Exh.C-6 in para-2(a). In my opinion witness of the first party also stated in cross-examination that Central Civil Services Rules are applicable to the employees of the first party. In my considered view it is for the first party to stick up with one stand either to say FCI Staff Regulations are applicable, or to say employees are governed by Model Standing Orders Act, or it is for the first party to say that Central Civil Services Rules are applicable. But no specific

stand is taken by the first party about applicability of the service conditions to the employees working with the first party. The first party contended that there is provisions for an appeal, but without preferring the departmental appeal the second party workman approached this Tribunal and this Tribunal has no jurisdiction to entertain the present Reference. But in my considered view it is for the second party workman either to raise an industrial dispute or prefer departmental appeal and there is no bar under the I.D. Act to the effect that without availing the departmental remedy the second party workman cannot approach under the I.D. Act, for adjudication of an industrial dispute. Thus I do not find any substance in the objection raised by the first party in this respect. The first party has also stated that Central Administrative Tribunals established under the Administrative Tribunals Act is a Special Forum for the redressal of the grievance of the employees whose service terms and conditions are governed by Central Civil Services Rules. Thus according to the first party, the second party workman ought to have availed the remedy under the Administrative Tribunals Act which is a special forum, however in my considered view in view of the provisions in Administrative Tribunals Act, the category of workmen under I.D. Act are exempted and it is always open for the workman to raise an industrial dispute under the provisions of I.D. Act against the employer, as such I do not find any substance in the objection raised by the first party in this respect also.

9. Here I would like to mention that the first party made an application to this Tribunal for amendment in written statement vide Exh.C-33 and my Ld. Predecessor by order dtd. 25-9-2009 rejected the application for amendment in written statement on the ground that after the oral evidence of the parties the application for amendment in written statement was moved, whereby the first party requested if court comes to the conclusion that enquiry is illegal, in that case an opportunity for proving the misconduct against the second party before the court be given and the said application was rejected by my Ld. Predecessor vide order dtd. 25-9-2009. Thereafter again another application was filed by the first party at Exh.C-36, whereby the first party requested that preliminary issue in respect of domestic enquiry be framed and the said application was also rejected by my Ld. Predecessor by order dtd.5-2-10, however in the same order in para-4 in sub-para it is observed by my Ld. Predecessor that, "while deciding the legality and justifiability of the action taken by the first party this court will certainly consider the procedural aspect of enquiry including denial of opportunity in the conduct of enquiry, proving of misconduct and quantum of punishment also, however in absence of pleadings about proving the misconduct if the enquiry is vitiated by the court, there is no necessity of framing the issue regarding procedural aspect of enquiry as preliminary issue." In view of these observations made by my

Ld. Predecessor in the orders dtd. 25-9-09 & 5-2-10 I have no other alternative but to decide the Reference as per material available on record.

10. It appears from record that charge sheet dtd. 28-8-98 was given to the second party workman by the first party in which statement of article of charges framed against the second party workman reads as under :-

Article No. I :

That Smt. N.J. Khasgiwale, A.G.III(D) working under Dist. Office, Pune w.e.f. 25-3-85 willfully & deliberately disobeyed the lawful orders of Dist. Manager, Pune transferring her from Dist. Office, Pune to Ahmednagar on rotation basis on 20-7-94 and relieving her from H.K. Section of Dist. Office, Pune on 30-7-94 A/N., by not joining her duty at Ahmednagar depot.

Thus the said Smt. N.J.Khasgiwale, A.G.III(D) exhibited gross insubordination in performance of her duty.

She is therefore charged for contravening the provisions of 31(b), (c) & (d) & 32 read with 32A(6) of FCI Staff Regulations 1971.

Article No. II :

That Smt. N.J. Khasgiwale, A.G.III(D) on knowing her turn of transfer on rotation basis from Dis. Office, Pune to Ahmednagar depot remained absent on medical ground w.e.f. 18-7-94 to 18-3-96 and also remained absent unauthorizedly and without prior intimation or approval from 19-3-96 onwards.

She had thus exhibited gross negligence and carelessness in performance of her duty and also lack of devotion to duty.

Smt. N.J. Khasgiwale, A.G.III(D) is therefore charged for contravening the provisions of Regulations 31, 32 read with 32A(7) of FCI Staff Regulations, 1971.

11. Further it appears that preliminary enquiry was held and thereafter detailed enquiry was held. Those enquiry papers (xerox copies) are produced on record with list Exh.C-12 and most of these documents are also exhibited in the evidence of both parties. Further it appears that initially enquiry was held at Pune, where two witnesses were examined by the first party and second party workman also participated in the said enquiry, however all of a sudden the enquiry was fixed at Shivdi, Mumbai and at Mumbai the second party workman did not attend the enquiry and she sent her representation and enquiry officer proceeded with enquiry ex parte again at the second party workman and in Mumbai third witness of first party was examined, however as the second party workman remained absent in Mumbai as such the enquiry officer marked absence of second party workman and proceeded enquiry ex parte.

against the second party workman and parties were directed to submit their case in writing and second party workman submitted her defence in brief vide Exh.12/AAL in the matter. The enquiry officer thereafter submitted his report, which is at Exh.C-12/AAM in the matter. The enquiry officer observed in para-II that, "he fixed the regular hearing of the case at Pune on 11-3-99 & 12-3-99. On these days two witnesses namely Smt. R.C. Chaphekar and Mr. YB Randive, were examined and cross-examined and right to cross-examine of PW-1 was however reserved by the second party, therefore her cross-examination did not take place". The enquiry officer in para-13 & 14 of enquiry report further observed as under -

"However the Zonal Manager(West) did not approve my tour programme for Pune and directed that enquiry be conducted at Mumbai itself. Page no.47 of file no.10/INQ/NJK/7/98 is relevant in this regard. Under the circumstances the enquiry fixed on 23-3-99 was adjourned and rescheduled for 30-3-99 to be held in the chamber of Manager (enquiry) at Sewree at 11 am and the Co/PO were duly notified.

On 30-3-99 the second party failed to appear before I.O. At scheduled time. Earlier a telegram had been received on 24-3-99 which reads as follows, "Can't attend on 30th March instead 12/13 April at Pune(.) letter follows-NJK(.) But no letter was received till 11 am on 30-3-99 and hence it was decided to proceed with further enquiry ex-parte. However at 12.00 noon her letter was received by dak saying that since her son's annual exam was going on and ends on 9-4-99 and that there was no one to look after him she was unable to attend enquiry at Mumbai. She went on to request adjournment and enquiry at Pune on 12/13-4-99."

Thus in view of the observations made by the enquiry officer I find because of change of venue from Pune to Mumbai of the enquiry, the second party workman was unable to attend at Mumbai and in absence of second party in the enquiry at Mumbai the enquiry officer proceeded ex-parte against the second party workman. I do not find any just & proper reason why the place of enquiry from Pune to Mumbai was changed. Thus it is clear that by conducting enquiry against the second party workman ex-parte at Mumbai, prejudice has caused to the second party workman and because of the ex-parte enquiry the second party workman was unable to put her case in her defence before the enquiry officer. Under these circumstances it cannot be said that enquiry officer has followed the principles of natural justice in conduct of domestic enquiry. Thus I have no hesitation to hold that the enquiry held against the second party workman was illegal and violative of principles of natural justice and prejudice has caused to the second party workman because of conduct of domestic enquiry ex-parte at Mumbai.

12. The enquiry officer in his report concluded in respect of charges levelled against the second party workman as per charge sheet which reads as under :-

"In view of the considerations explained in the preceding para, and evidence brought forth during the course of enquiry. I have come to following conclusion with regard to Artl & II of the charges.

(a) Article - I : Not proved because service of transfer order-relieving order was not proved by evidence, without service of a transfer order, its violation cannot be proved even if an official learns about the transfer from other sources-correspondence and agitates for cancellation thereof. In the instant case obviously no efforts were made to arrange service of transfer-relieving order by hand through a committee or by responsible official-officials or by way of publication in news paper. Since the transfer itself has not been proved, discussion about transfer policy-rules etc. is uncalled for.

(b) Article - II : Absence from 18-7-94 to 18-3-96 cannot be termed as unauthorized nor is it so alleged in charge-sheet. However, absence from duty beyond 18-3-96 proved by PW1 is unauthorized, not having been covered by a sanction of appropriate authority. I have no hesitation in drawing this conclusion as Ex P17 does not say that she is unfit to do any official work nor does it say that she needed rest. Apart from that no evidence was brought forth by the defence to show that the Co. was actually taking any Psychiatric treatment at Pune and that she was incapable of even performing her duty in DO, Pune due to her illness.

No evidence has also been brought forth to show that on the basis of the certificate of Sasoon Hospital, she had approached the DO, Pune to permit her resume duty at DO, Pune. No evidence was produced to prove that she had applied for leave with reference to Ex P17 i.e. Certificate of Sasoon Hospital or that her absence from 19-3-96 onwards has been regularized by competent authority. The o. has not even pleaded any where that the allegation that she was absenting even after 18-3-96 is false. No evidence like leave register, salary slips, etc. were sought by defence to be produced to claim that she was actually on duty after 18-3-96 and allegations of absence is false. In view of all this I hold that by her act of absenting from duty beyond 18-3-96 she has violated Reg.31(b) and 32 A(7). But there is no evidence to show that she has violated reg.32 or FCI (Staff) Regulations 1971."

Further it appears that the Sr. Regional Manager (Mah.) vide his memorandum dtd. 28/31-8-99, dis-agree with

the findings recorded by the enquiry officer and observed that charges levelled against the second party workman were duly proved and this memorandum was duly served upon the second party workman and thereafter the Sr. Regional Manager passed the detailed order dtd. 6-12-99 at Exh.C-12-AAP and inflicted the punishment of compulsory retirement upon the second party workman. The wording of compulsory retirement order dtd.6-12-99, the last para reads as under -

"Now, therefore, the undersigned awards the penalty of 'compulsory retirement from service' to Mrs. Khasgiwale and further orders that he unauthorized absence from 19-3-96 till date will be treated as Dies non for all purposes. Further, her period of absence from 18-7-94 to 18-3-96 on medical certificate will be regularized as leave of the kind due by the competent authority."

13. In my considered view as per the report of enquiry officer the charge of Article-I is not proved and about charges of Article-II as per Regulation 32 of FCI Staff Regulations is also not proved, however the charge in relation to Regulation-31(b) & 32(a) are proved. However the disciplinary authority disagreed with the findings of the enquiry officer. I have already pointed out that disciplinary authority while memorandum dtd.28-8-99 Exh. C-12/IAT has recorded the reasons why he was disagreed with the findings recorded by the enquiry officer and substituted his own findings and thereafter punishment order was issued against the second party workman. It is pertinent to note that the disciplinary authority in his memorandum dtd.28-8-99 while deferring with the findings recorded by the enquiry officer has not at all considered the defence of the second party workman as per representation submitted to the enquiry officer Exh.C -12-AAL. In my opinion the enquiry officer has recorded his findings on the basis of oral evidence before him in the enquiry and on the basis of same evidence the disciplinary authority has taken a different view and substituted his own findings holding that all the charges levelled against the second party workman are proved. In my opinion it is now well settled position of law that though different view is possible it is not permissible to the disciplinary authority to take different view and to substitute its own findings in the enquiry report.

14. Here I would like to mention that earlier I have observed about procedural aspect of the enquiry and declared that conduct of ex-parte enquiry against the second party workman has caused prejudice to the second party workman as such the enquiry held against the second party is illegal and violative of principles of natural justice. Thereafter I have discussed about enquiry report and observations made by the disciplinary authority and in my considered view the observations made by the disciplinary authority are perverse as it is not permissible to the disciplinary authority to take a different view only to say

charges levelled against the second party workman are proved on the basis of evidence in the enquiry. In view of this it is clear that the action taken against the second party workman is illegal and not in accordance with law. I have already pointed out that my Ld: Predecessor by two orders dtd.25-9-09 & 5-2-10 rejected the request of the first party employer to amend the written statement, as such though in this proceedings enquiry held against the second party workman was declared as illegal and findings recorded by the disciplinary authority are declared as perverse still the first party will not get an opportunity to justify his action for the simple reason as observed by my. Ld. Predecessor in these two orders that there is no pleading in the written statement as such it is not necessary to give an opportunity to first party to justify his action before this Tribunal.

15. The first party has produced the copies of several provisions of regulations in relation to Sec-I, Sec-5 & Sec-4 only. The xerox copies are produced with list Exh.C -44. Today also the Advocate for the first party has produced the xerox copy of notification issued by the Central Government under FCI Act on 17-10-74 with list Exh.C -48. The Section-1(3) of FCI (Staff) Regulations, 1971 reads as under-

"They shall apply to all the employees of the Corporation including transferred employees, other than:

- (a) Persons employed on a purely part-time basis; and
- (b) Persons employed on special contracts to the extent that the terms and conditions of such contracts are inconsistent with the provisions of these regulations:
- * Persons governed by the Industrial Employment (Standing Orders) Act, 1946 (Act 20 of 1946) and/or the Food Corporation of India (Industrial Establishments) Standing Orders framed under the said Act.
- ** Provided that nothing contained in these regulations shall apply to any Director of the Corporation or to the Secretary who is not an employee of the Corporation. "

The Section-5, Rule-54 speaks about the penalties under the said FCI (Staff) Regulations, which provides the major penalties which reads as under—

Major Penalties:

- (v)
- (vi)
- (vii) compulsory retirement;

(viii)

(ix)

Explanation: The following shall not constitute a penalty within the meaning of this regulation:

(a)

(b) compulsory retirement of an employee in accordance with the provision relating to superannuation or retirement.

(c)

In my opinion no doubt the first party has power to inflict the punishment of compulsory retirement on its erring employee as per FCI Staff regulations, however it is always subject to age of superannuation/retirement. In my considered view it is for the first party to consider whether the punishment awarded to the second party workman about compulsory retirement was permissible as per Staff Regulations in view of age of the second party workman on the date of punishment. In my considered view the punishment of compulsory retirement has to be read with the age of superannuation/retirement as prescribed under the service rules, in view of the explanation provided in penalty clause. As such the punishment awarded to the second party workman by the first party is not in accordance with the law and is liable to be set aside.

16. I have already pointed out that to whom the provisions of FCI (Staff) Regulations are applicable and from the above clause it is clear that the employees governed by the Industrial Employment Standing Order Act are exempted from the provisions of Staff Regulations. The first party has not produced a notification on record to show that under the provisions of Industrial Employment Standing Order Act, 1946 the Government of India has notified the Staff Regulations from the applicability of Industrial Employment (Standing Orders) Act, 1946 vide notification under 13(B) in absence of any exemption notification issued by the Central Government as required under the provisions of Industrial Employment (Standing Orders) Act, 1946, in my opinion one has to conclude that provisions of Standing Orders are applicable to the services of the second party workman and under the provisions of Standing Orders Act the punishment of compulsory retirement is not provided and the employer has power only to inflict the punishment which are specifically provided in the Standing Orders, as punishment of compulsory retirement is not provided under the Standing Orders, as such the first party cannot inflict the punishment of compulsory retirement and as such the punishment of compulsory retirement given by the first party to the second party workman is illegal and contrary to the law.

Apart from all these observations made above I hold that as the enquiry held against the second party workman

is illegal and the first party has not justified his action in terminating the services of the second party workman by way of compulsory retirement. I hold that the action of the first party in terminating the services of the second party workman w.e.f. 19-3-96 vide letter dtd. 6-12-99 is not legal and justified, hence I answer Issue No. 1 in the negative.

17. In view of my findings on above issue it is clear that order dtd. 6-12-99 of compulsory retirement given by the first party to the second party workman is liable to be set aside and as a result of that the second party workman is entitled for the relief of reinstatement with continuity of service as a normal rule. However about the relief of back wages, it is necessary to consider whether the second party workman is gainfully employed after her termination or not. The second party workman in her statement of claim as well as in deposition stated that she is not gainfully employed after her termination and she tried for alternate employment and to that effect the second party workman has produced the documents with list Exh.U-10 & U-11 to show that she tried for alternate employment but she could not get the same. However it is on record that since 19-3-96 the second party workman is continuously remaining absent from duty, as such in my considered view considering her long absence from duty, this is not a fit to case to grant full back wages to the second party workman and in my opinion having regards to the facts and circumstances of the case it will be just and proper to deny the relief of back wages to the second party on the background of long continuous absence from duty. In view of this I hold that the second party workman is entitled for reinstatement with continuity of service but without back wages, as such the Reference is liable to be answered partly in the affirmative. In view of this I answer Issue No. 2, 3 & 4 accordingly and proceed to pass the following award.

AWARD

1. The Reference is answered partly in affirmative.
2. It is hereby declared that the action of the first party in terminating the services of second party w.e.f. 19-3-96 vide letter dtd. 6-12-99 is not legal and justified, as such the second party workman Smt. Nirmala Jaywant Khasgiwale, A. G. (Grade III) is entitled for reinstatement with continuity of service, but without back wages.
3. No order as to costs.
4. Copies of this award be sent to Government for necessary action.

M. G. CHOUDHARY, Presiding Officer

Pune:

Date: 23-11-2010

नई दिल्ली, 2 जून, 2011

का.आ. 1740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 27/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-05-2011 को प्राप्त हुआ था।

[सं. एल-12012/346/2001-आई आर (बी-1)]

रमेश सिंह, डेस्क अधिकारी

New Delhi, the 2nd June, 2011

S. O. 1740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, received by the Central Government on 31-05-2011.

[No. L-12012/346/2001-IR(B-I)]

RAMESH SINGH, Desk Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/27/2002 Date: 16-05-2011.

Party No. 1 : (a) The Asstt. General Manager, State Bank of India, Region-VI, S. V. Patel Marg, Nagpur-440 00.

(b) The Branch Manager, State Bank of India, Pulgaon Branch, Post-Pulgaon, Tah. Deoli, Dist. Wardha.

Versus

Party No. 2 : Shri Sunil Devidas Naharkar, R/o Ward No. 12, Indira Nagar, Pulgaon, Tah. Deoli, Dist. Wardha.

AWARD

(Dated: 16th May, 2011)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub- section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of the Assistant General Manager, State Bank

of India, Region-VI, S.V. Patel Marg and their workmen, Shri Sunil Devidas Naharkar for adjudication, as per letter No. L-12012/346/2001-IR(B-I) dated 5-2-2002, with the following schedule :—

"Whether the action of the management of the State Bank of India represented by (i) The Asstt. General Manager, State Bank of India, Region VI, S. V. Patel Marg, Nagpur, (ii) The Branch Manager, State Bank of India, Pulgaon, Distt - Wardha (MS) in terminating the services of Shri Devidas Naharkar, R/o Ward No. 12, Indira Nagar, Pulgaon, Distt - Wardha (MS) w.e.f. Oct. 1999 is justified ? If not, what relief the said workman is entitled ?"

2. On receipt of the reference, notices were issued to the parties to file their respective statement of claim and written statement, in response to which, the workman, Shri Sunil Devidas Naharkar ("the workman" in short) filed the statement of claim and the management of the Asstt. General Manager, State Bank of India, Region-VI, S. V. Patel Marg, Nagpur ("the Party No.1 (a)" in short) filed its written statement. The case of the workman is that initially he was appointed as a Sweeper-cum-part time messenger on daily wages basis in April, 1990 and since then, he was engaged continuously with artificial break and the Party No.1 (b) issued experience certificates but the statement mentioned in the experience certificate dt. 25-1-91 and 27-2-92 are not correct and the same are mis-representation of the facts, as he worked continuously for months together during the said period and the Party No.1(b) was paying him wages on vouchers and the Party No.1(b) was not taking his attendance or did not give him any document regarding payment of wages and as such, he is not in a position to produced any documentary evidence to show that he worked continuously since April, 1990 and on 13-2-92, he received a interview call from the office of Party No. 1 (a) and appear before the selection committee with required documents and thereafter also, Party No.1(b) engaged him continuously by issuing letters from time to time and the Party No.1 (b) adopted unfair labour practice and only to avoid claim of regularization and other related benefits, engaged him continuously, but issued temporary appointment letters in the name of others, particularly, Shri Ravi and Raju Devidas, but used to pay him wages sometime on vouchers and sometime on banker's cheque or on master register and as he was unemployed and having no other source of income and was not in hope to get a suitable appointment, he accepted the temporary appointment without making any grievances and as he submitted various representatives for regularizing his service and to appoint him permanently in the post of Sweeper, the Party No.1(b) developed grudge against him and at the instance of Party No.1(a) orally terminated his service in October, 1999, without complying the provisions of retrenchment from service, as per the provisions of the Act, even though there was need of engagement of

waterman-cum-messenger-cum-sweeper. The further case of the workman is that he had been selected by the selection board in the interview held on 28-2-92 and his name was included in the selection list/waiting list but still then, he was not appointed on permanent basis, but some junior persons, whose names were below his name in the selection list were given regular appointment and subsequently he requested the Party No.1 (a) and 1(b) to reinstate him in service, but his request was not acceded to, so, he was bound to raise the industrial dispute. The workman has prayed to declare his termination from service as unfair labour practice by Party No.1 and to reinstate him in service with continuity and full back wages.

3. The Party No.1(a) in its written statement pleaded that the workman was engaged purely on temporary basis and he was engaged intermittently without continuity in service, due to administrative exigency for doing sundry work i.e. sweeper to clean the branch premises and the disengagement of the workman was done in view of the various settlements made between the Bank and the recognized unions of the Bank, which had taken up cause of all such temporary employees and negotiations were conducted between the Bank and the Federation to provide inter alia, for giving a chance to eligible temporary/daily wagers/casual employees in the subordinate cadre for consideration of their appointment permanently in the bank and after negotiations, a settlement dt. 17-11-87 was reached between the parties and the said settlement was modified/clarified vide settlements dt. 16-7-88, 27-10-88, 9-1-91 and 30-7-96 and in term of the minutes of the conciliation proceedings held on 9-6-95 before the Regional Labour Commissioner (Central) at Hyderabad in partial modification of the earlier settlements, which culminated in the settlement dt. 30-7-96, it was agreed that temporary employees and casual labourers would be given one time opportunity to be absorbed under certain norms and for that purpose, panels should be prepared for filling up of vacancies and it was also agreed that the panels for absorption would be kept alive up to 31-3-97 and thereafter, the panels would lapse and the settlements are binding on the parties and in view of such settlements, the bank gave an advertisement in the newspapers calling upon all the eligible temporary employees to apply for permanent appointment and accordingly, the workman applied for his absorption and he was interviewed and his name was placed at Sl. No.13 of the year 1992 and the said panel stood lapsed on 31-3-97 and as such, there was no question of absorbing him in service and the workman did not work for 240 days in the preceding calendar year, in which his services were discontinued and in fact he worked for 208 days during the last calendar year and the workman was appointment on daily wages - temporary basis and such appointment was illegal and irregular and as such, the same cannot be perpetuated for indefinite period and after the completion of the engagement of the

workman on temporary basis, termination of his services were inevitable. It is further pleaded by the Party No.1 (a) that as the waiting list of 92 lapsed on 31-3-97, the workman could not be absorbed on permanent service of the bank and the workman was never engaged in the name of others and he had been engaged in his own name and he had been paid wages for the same and the bank had never issued appointment letters in different names particularly in the name of Ravi and Raju as alleged by the workman and no person junior to the workman was absorbed or given permanent appointment by the bank and as the workman did not complete 240 days of work, he was not entitled for notice or retrenchment compensation and as the action of the bank in disengaging the services of the workman was within the four corners of law, the workman is not entitled for any relief.

4. It is necessary to mention here that though the workman was directed to file evidence in support of his claim on affidavit, he did not adduce any evidence. The workman had filed an application for direction to the Party No.1(a) & (b) to provide documents, but he remained absent from 11-9-2008 and did not attend the Tribunal, so the petition filed by him was rejected as not pressed. The workman also did not take part in the hearing of the case on merit and as such, the hearing of argument on merit from the side of the management was taken ex parte against the workman.

5. In this case, except the xerox copies of two certificates issued by the Branch Manager in his favour, the workman has not adduced any other evidence in support of his claim that he worked continuously from April, 90 to Oct., 99. The first certificate shows that the workman worked for 35 days during 90 and 18 days during January to May, 91, on daily wages basis. The second certificate shows that the workman worked as Messenger-cum-Waterman on daily wages basis for some days during the year 1990. In this case, the workman has claimed that he worked continuously from April, 90 to October, 99 but the management has denied the claim and as such, the burden was on the workman to prove that he worked for 240 days in the preceding 12 months from the date of his termination of his service. In this case, no evidence has been adduced by the workman in that respect. As such, there was no question of compliance of the provisions of retrenchment as provided under the Act. Hence it is ordered :

ORDER

The action of the management of the State Bank of India represented by (i) The Asstt. General Manager, State Bank of India, Region VI, S.V. Patel Marg, Nagpur (ii) The Branch Manager, State Bank of India, Pulgaon Branch, Distt. Wardha (M.S.) in terminating the services of Shri Sunil Devidas Naharkar, R/o Ward No.12, Indira Nagar,

Pulgaon, Distt -Wardha (MS) w.e.f. Oct., 1999 is justified. The workman is not entitled for any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 3 जून, 2011

का.आ. 1741.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.एस.एन.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 105/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-2011 को प्राप्त हुआ था।

[सं. एल-40012/21/2010-आई आर (डीयू)]

डॉ. एस. एस. श्रीनिवास राव, डेस्क अधिकारी

New Delhi, the 3rd June, 2011

S. O. 1741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BSNL and their workmen, which was received by the Central Government on 3-06-2011.

[No. L-40012/21/2010-IR (DU)]

D.S.S. SRINIVASA RAO, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 105 of 2010

Between

Sri Rajesh Kumar,
Son of Sri Jhabboo Lal,
Village Gujarpur Gaharwar,
Post Amritpur, District Farrukhabad.

And

The General Manager,
Bharat Sanchar Nigam Limited,
Farrukhabad.

AWARD

- Central Government, MoL New Delhi, vide Notification No. L-40012/21/2010-IR(DU) dated 2-11-2010 has referred the following dispute for adjudication to this tribunal-
- Whether the action of the management of Bharat Sanchar Nigam Limited, Farrukhabad in

terminating the services without complying with the mandatory provision of Industrial Disputes Act, 1947 in respect of Sri Rajesh Kumar son of Sri Jhabboo Lal with effect from 17-9-2009 is legal and justified ? If not, what relief the workman is entitled to ?

- After receipt of reference order from Ministry of Labour, New Delhi registered notices were issued to the contesting parties twice from this Tribunal fixing repeated dates for filing of the claim statement by the concerned claimant. But despite availing of repeated opportunities, neither the claimant put his appearance before the tribunal nor filed his statement of claim.
- Therefore, from the above it is quite obvious that the claimant is not at all interested to prosecute his case before this tribunal and as such the reference is bound to be answered against the claimant and in favour of the management for want of pleadings and evidence.
- Reference is therefore, answered against the workman and in favour of management.

RAM PARKASH, Presiding Officer

Date 25-5-2011

नई दिल्ली, 13 जून, 2011

का.आ. 1742.—जबकि मैसर्स वेबको टीवीएस लिमिटेड [चेन्नई क्षेत्र में कोड संख्या टीएन/66827 के अंतर्गत] (इसमें इसके उपरांत स्थापना के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकारीण उपबंध अधिनियम, 1952 (1952 का 19) (इसमें इसके उपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आदेदन किया है।

2. और जबकि केन्द्रीय सरकार के मत में, अंशदान की दरों के संबंध में उपर्युक्त स्थापना के भविष्य निधि-नियम उक्त अधिनियम की धारा 6 में विविरित नियमों की तुलना में, कर्मचारियों के लिए कम उपर्युक्त नहीं हैं और कर्मचारी, उक्त अधिनियम, अथवा कर्मचारी भविष्य निधि योजना, 1952 (इसमें इसके उपरांत योजना के रूप में संदर्भित) के अंतर्गत सदूश स्वरूप की किसी अन्य स्थापना में कर्मचारियों के संबंध में दिए जाने वाली अन्य भविष्य निधि-प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस संबंध में समय-समय पर विविरिद्धि शर्तों के अध्यधीन, केन्द्रीय सरकार अगली अधिसूचना तक दिनांक 28-03-2008 से उपर्युक्त स्थापना को उक्त योजना के सभी उपबंधों के प्रचालन से छूट प्रदान करती है।

[सं. एस-35015/02/2011-एसएस-II]

एस. डॉ. जेयियर, अवर सचिव

New Delhi, the 13th June, 2011

S.O. 1742.—Whereas M/s WAPCO TVS (INDIA) Limited (under Code No. TN/66827 in Chennai Region) (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 28-03-2008 until further notification.

[No. S-35015/2/2011-SS-II]

S. D. XAVIER, Under Secy.

नई दिल्ली, 14 जून, 2011

S.O. 1743.—कर्मचारी रुपय बीमा अधिनियम, 1948 (1948 का 34) की भारा-1 की उप-भारा-(3) द्वारा प्रदत्त संकेतों का प्रयोग करते हुए, केन्द्रीय सरकार एकलाइन 01 जुलाई, 2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 भारा के सिवाय जो पहले से प्रयुक्त हो चुकी है) अध्याय-5 और 6 (भारा-76 की उप-भारा-(1) और भारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रयुक्त की जा चुकी है) के उपर्योग राजस्थान राज्य के नियन्त्रित क्षेत्रों में प्रयुक्त होंगे, अर्थात् :

अ. सं.	राजस्थान गांव का नाम	तहसील का नाम	जिला
(1)	(2)	(3)	(4)
1.	कूकस	आमेर	जयपुर
2.	नांगल सुसालान	आमेर	जयपुर
3.	चिमनपुर उर्फ लाल का नहर	आमेर	जयपुर
4.	सुराठ	आमेर	जयपुर
5.	नेस्तीधास	आमेर	जयपुर
6.	कचेरायला उर्फ कोकरायावास	आमेर	जयपुर

(1)	(2)	(3)	(4)
7.	बीड तालेडा	आमेर	जयपुर
8.	नटटा	जमवारायामाद	जयपुर
9.	हरबर	आमेर	जयपुर
10.	डण्ड	आमेर	जयपुर
11.	लबाना	आमेर	जयपुर
12.	गुणवता	आमेर	जयपुर
13.	कुण्डा	आमेर	जयपुर
14.	आमेर	आमेर	जयपुर
15.	पीली की तलाई	आमेर	जयपुर

[संख्या एस-38013/51/2011-एस.एस. 1]

एस. डी. जेवियर, अमेर सचिव

New Delhi, the 14th June, 2011

S.O. 1743.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st July, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Rajasthan, namely :—

Sl. No.	Name of the areas within the limits of Revenue villages	Tehsil	District
(1)	(2)	(3)	(4)
1.	Kukas	Amber	Jaipur
2.	Nangal Susawtan	Amber	Jaipur
3.	Chimanpura Uraf Dhab Ka Nala	Amber	Jaipur
4.	Khurad	Amber	Jaipur
5.	Nestiwas	Amber	Jaipur
6.	Kacherawala Uraf Chokhlyawas	Amber	Jaipur
7.	Beed Talera	Amber	Jaipur
8.	Natata	Jamawa Ramgarh	Jaipur
9.	Harbar	Amber	Jaipur
10.	Dhand	Amber	Jaipur

(1)	(2)	(3)	(4)
11.	Labana	Amber	Jaipur
12.	Gunawata	Amber	Jaipur
13.	Kunda	Amber	Jaipur
14.	Amber	Amber	Jaipur
15.	Peelee ki Talai	Amber	Jaipur

[No. S-38013/51/2011-S.S.I.]

S. D. XAVIER, Under Secy.

नई दिल्ली, 14 जून, 2011

का.आ. 1744.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 जुलाई, 2011 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप-धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबंध राजस्थान राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :

क्र. सं.	राजस्व गाँव का नाम	तहसील का नाम	जिला
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(1)	(2)	(3)	(4)
1.	करमपुर	तिजारा	अलवर
2.	करमसीबास	तिजारा	अलवर
3.	कालाका	तिजारा	अलवर
4.	कारोली	तिजारा	अलवर
5.	खोहरी कलां	तिजारा	अलवर
6.	खोहरी खुर्द	तिजारा	अलवर
7.	खातीबास	तिजारा	अलवर
8.	खुशखेड़ा	तिजारा	अलवर
9.	छापर	तिजारा	अलवर
10.	दागन हड्डी	तिजारा	अलवर
11.	धामाबास	तिजारा	अलवर
12.	पथरडी	तिजारा	अलवर
13.	फकरूद्दीनका	तिजारा	अलवर
14.	बनबीरपुर	तिजारा	अलवर
15.	बीबीपुर	तिजारा	अलवर
16.	बूरहड़ा	तिजारा	अलवर
17.	महेसरा	तिजारा	अलवर

(1)	(2)	(3)	(4)
18.	मयापुर	तिजारा	अलवर
19.	लादिया	तिजारा	अलवर
20.	लबेदार	तिजारा	अलवर
21.	मिरचूनी	तिजारा	अलवर
22.	लाडमका	तिजारा	अलवर
23.	हसनपुर	तिजारा	अलवर
24.	सलारपुर	तिजारा	अलवर
25.	शाहपुर	तिजारा	अलवर
26.	हसींगपुर	तिजारा	अलवर
27.	कमालपुर	तिजारा	अलवर
28.	गुबाल्दा	तिजारा	अलवर
29.	गेलपुर	तिजारा	अलवर
30.	जखोपुर	तिजारा	अलवर
31.	झुण्डपुरी	तिजारा	अलवर
32.	टपूकड़ा	तिजारा	अलवर
33.	धौली पहाड़ी	तिजारा	अलवर
34.	धीरियाबास	तिजारा	अलवर
35.	नाखनौल	तिजारा	अलवर
36.	निष्ठाहेड़ी	तिजारा	अलवर
37.	नौगाँवा	तिजारा	अलवर
38.	पाटन खुर्द	तिजारा	अलवर
39.	बसई	तिजारा	अलवर
40.	बूबकाहड़ा	तिजारा	अलवर
41.	मुसारी	तिजारा	अलवर
42.	मिठियाबास	तिजारा	अलवर
43.	मसीत	तिजारा	अलवर

[संख्या-एस-38013/50/2011-एस.एस.1]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 14th June, 2011

S.O. 1744.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st July, 2011 as the date on which the provisions of Chapter IV (except Sections 44 and 45

which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Rajasthan, namely :—

Sl. No.	Name of the areas within the limits of Revenue villages	Tehsil	District
(1)	(2)	(3)	(4)
1.	Karampur	Tijara	Alwar
2.	Karamsiwas	Tijara	Alwar
3.	Kalaka	Tijara	Alwar
4.	Karoli	Tijara	Alwar
5.	Khohari Kalan	Tijara	Alwar
6.	Khohari Khurd	Tijara	Alwar
7.	Khatiwas	Tijara	Alwar
8.	Khush Khera	Tijara	Alwar
9.	Chhappar	Tijara	Alwar
10.	Dagan Heni	Tijara	Alwar
11.	Dhamawas	Tijara	Alwar
12.	Pathreri	Tijara	Alwar
13.	Fakruddinka	Tijara	Alwar
14.	Banbeerpur	Tijara	Alwar
15.	Bibipur	Tijara	Alwar
16.	Buraheda	Tijara	Alwar
17.	Mahesara	Tijara	Alwar
18.	Mayapur	Tijara	Alwar
19.	Ladiya	Tijara	Alwar
20.	Labedar	Tijara	Alwar
21.	Mirchuni	Tijara	Alwar
22.	Ladamka	Tijara	Alwar
23.	Hasanpur	Tijara	Alwar
24.	Salarpur	Tijara	Alwar
25.	Shahapur	Tijara	Alwar
26.	Husingpur	Tijara	Alwar
27.	Kamalpur	Tijara	Alwar
28.	Guwalda	Tijara	Alwar
29.	Gailpur	Tijara	Alwar
30.	Jakhopur	Tijara	Alwar

(1)	(2)	(3)	(4)
31.	Jhundpuri	Tijara	Alwar
32.	Tapukara	Tijara	Alwar
33.	Dhauhi Pahari	Tijara	Alwar
34.	Dhiriyawas	Tijara	Alwar
35.	Nakhnaul	Tijara	Alwar
36.	Nimbahedi	Tijara	Alwar
37.	Naugawan	Tijara	Alwar
38.	Patan Khurd	Tijara	Alwar
39.	Basai	Tijara	Alwar
40.	Boobkahera	Tijara	Alwar
41.	Musari	Tijara	Alwar
42.	Mithiawas	Tijara	Alwar
43.	Masit	Tijara	Alwar

[No. S-38013/50/2011-S.S.I]

S. D. XAVIER, Under Secy.

नई दिल्ली, 15 जून, 2011

का.आ. 1745.—केन्द्रीय सरकार संतुष्ट हो, जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के ग्रन्थ और रोजगार मंत्रालय की अधिसूचना संख्या का.आ. दिनांक 15-12-2010 द्वारा लोह अयंक खनन उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 16 में शामिल है को उक्त अधिनियम के प्रयोजनों, के लिए दिनांक 18-12-2010 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 18-06-2011 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. संख्या एस-11017/13/97-आईआर(पी.एल.)]

रवि माथुर, अपर सचिव

New Delhi, the 15th June, 2011

S.O. 1745.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act,

1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour and Employment, dated 15-12-2010 the service in the Iron Ore Mining Industry which is covered by item 16 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a Public Utility Service for the purpose of the said Act, for a period of six months from the 18th December 2010.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months from the 18th June, 2011.

[F. No. S.-11017/13/97-IR(PL)]

RAVI MATHUR, Addl. Secy.

नई दिल्ली, 20 जून, 2011

का.आ. 1746.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि इंधन गैसों (कोयला गैस, प्राकृतिक गैस और ऐसी अन्य के प्रसंस्करण एवम् उत्पादन में लगे उद्योग) में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविधि 29 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धरा 2 के खण्ड (d) के उप-खण्ड (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. संख्या एस-11017/2/2003-आईआर(पी.एल.)]

रवि माथुर, अपर सचिव

New Delhi, the 20th June, 2011

S.O. 1746.—Whereas the Central Government is satisfied that the public interest so requires that the services in the industry engaged in the 'Processing or Production of Fuel Gases (Coal Gas, Natural Gas and, the like)' which is covered by item 29 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a Public Utility Service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a Public Utility Service for the purpose of the said Act for a period of six months.

[No. S-11017/2/2003-IR(PL)]

RAVI MATHUR, Addl. Secy.